African Union, African Regional Bodies

Agreement Establishing the African Continental Free Trade Area

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FRBR URI: /akn/aa-au/act/agreement/2018/african-continental-free-trade-area/eng@2018-03-21

Agreement Establishing the African Continental Free Trade Area
Contents

African Union

Agreement Establishing the African Continental Free Trade Area

Published

Commenced on 30 May 2019

[This is the version of this document at 21 March 2018.]

We, Member States of the African Union,

DESIROUS to implement the Decision of the Assembly of Heads of State and Government during its Eighteenth Ordinary Session held in Addis Ababa, Ethiopia from 29th-30th January, 2012 (Assembly/AU/Dec. 394(XVIII) of the Framework, Road Map and Architecture for Fast Tracking the establishment of the African Continental Free Trade Area and the Action Plan for Boosting Intra-African Trade;

COGNISANT of the launch of negotiations for the establishment of the Continental Free Trade Area aimed at integrating Africa's markets in line with the objectives and principles enunciated in the Abuja Treaty during the Twenty-Fifth Ordinary Session of the Assembly of Heads of State and Government of the African Union held in Johannesburg, South Africa from 14-15 June 2015 (Assembly/AU/Dec. 569(XXV);

DETERMINED to strengthen our economic relationship and build upon our respective rights and obligations under the Constitutive Act of the African Union of 2000, the Abuja Treaty and, where applicable, the Marrakesh Agreement Establishing the World Trade Organization of 1994;

HAVING REGARD to the aspirations of Agenda 2063 for a continental market with the free movement of persons, capital, goods and services, which are crucial for deepening economic integration, and promoting agricultural development, food security, industrialisation and structural economic transformation;

CONSCIOUS of the need to create an expanded and secure market for the goods and services of State Parties through adequate infrastructure and the reduction or progressive elimination of tariffs and elimination of non-tariff barriers to trade and investment;

ALSO CONSCIOUS of the need to establish clear, transparent, predictable and mutually-advantageous rules to govern Trade in Goods and Services, Competition Policy, Investment and Intellectual Property among State Parties, by resolving the challenges of multiple and overlapping trade regimes to achieve policy coherence, including relations with third parties;

RECOGNISING the importance of international security, democracy, human rights, gender equality and the rule of law, for the development of international trade and economic cooperation;

REAFFIRMING the right of State Parties to regulate within their territories and the State Parties' flexibility to achieve legitimate policy objectives in areas including public health, safety, environment, public morals and the promotion and protection of cultural diversity;

FURTHER REAFFIRMING our existing rights and obligations with respect to each other under other agreements to which we are parties; and

ACKNOWLEDGING the Regional Economic Communities (RECs) Free Trade Areas as building blocs towards the establishment of the African Continental Free Trade Area (AfCFTA),

HAVE AGREED AS FOLLOWS:

Part I – Definitions

Article 1 – Definitions

For the purpose of this Agreement,

(a) "**Abuja Treaty**" means the *Treaty Establishing the African Economic Community of 1991*;

(b) "**Agreement**" means this Agreement Establishing the African Continental Free Trade Area and its Protocols, Annexes and Appendices which shall form an integral part thereof;

(c) "**Annex**" means an instrument attached to a Protocol, which forms an integral part of this Agreement;

(d) "**Appendix**" means an instrument attached to an Annex which forms an integral part of this Agreement;

(e) "**Assembly**" means the Assembly of Heads of State and Government of the African Union;

(f) "**AU**" means the African Union;

(g) "**AfCFTA**" means the African Continental Free Trade Area;

(h) "**Commission**" means the African Union Commission;

(i) "**Constitutive Act**" means the Constitutive Act of the African Union of 2000;

(j) "**Continental Customs Union**" means the Customs Union at the continental level by means of adopting a common external tariff, as provided by the Treaty Establishing the African Economic Community of 1991;

(k) "**Council of Ministers**" means the Council of African Ministers of State Parties responsible for Trade;

(l) "**Dispute Settlement Body**" means the body established to administer the provisions of the Protocol on Rules and Procedures on the Settlement of Disputes except as otherwise provided in this Agreement;

(m) "**Executive Council**" means the Executive Council of Ministers of the Union;

(n) "**GATS**" means the WTO General Agreement on Trade in Services of 1994;

(o) "**GATT**" means the WTO General Agreement on Tariffs and Trade of 1994;

(p) "**Instrument**" unless otherwise specified in this Agreement refers to Protocol, Annex or Appendix;

(q) "**Member States**" means the Member States of the African Union;

(r) "**Non-Tariff Barriers**" means barriers that impede trade through mechanisms other than the imposition of tariffs;

(s) "**Protocol**" means an instrument attached to this Agreement, which forms an integral part of the Agreement;

(t) "**RECs**" means the Regional Economic Communities recognised by the African Union, namely, the Arab Maghreb Union (UMA); the Common Market for Eastern and Southern Africa (COMESA); the Community of Sahel-Saharan States (CEN-SAD); the East African Community (EAC); the Economic Community of Central African States (ECCAS); the Economic Community of West African States (ECOWAS); the Intergovernmental Authority on Development (IGAD) and the Southern African Development Community (SADC);

(u) "**Secretariat**" means the Secretariat established pursuant to Article 13 of this Agreement;

(v) "**State Party**" means a Member State that has ratified or acceded to this Agreement and for which the Agreement is in force;

(w) "**Third Party**" means a State(s) that is not a party to this Agreement except as otherwise defined in this Agreement; and

(x) "**WTO**" means the World Trade Organization, as established in terms of the *Marrakesh Agreement Establishing the World Trade Organization* of 1994.

Part II – Establishment, objectives, principles and scope

Article 2 – Establishment of the African Continental Free Trade Area

The African Continental Free Trade Area (hereinafter referred to as "the AfCFTA") is hereby established.

Article 3 – General objectives

The general objectives of the AfCFTA are to:

(a) create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of "An integrated, prosperous and peaceful Africa" enshrined in Agenda 2063;

(b) create a liberalised market for goods and services through successive rounds of negotiations;

(c) contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and RECs;

(d) lay the foundation for the establishment of a Continental Customs Union at a later stage;

(e) promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties;

(f) enhance the competitiveness of the economies of State Parties within the continent and the global market;

(g) promote industrial development through diversification and regional value chain development, agricultural development and food security; and

(h) resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes.

Article 4 – Specific objectives

For purposes of fulfilling and realising the objectives set out in Article 3, State Parties shall:

(a) progressively eliminate tariffs and non-tariff barriers to trade in goods;

(b) progressively liberalise trade in services;

(c) cooperate on investment, intellectual property rights and competition policy;

(d) cooperate on all trade-related areas;

(e) cooperate on customs matters and the implementation of trade facilitation measures;

(f) establish a mechanism for the settlement of disputes concerning their rights and obligations; and

(g) establish and maintain an institutional framework for the implementation and administration of the AfCFTA.

Article 5 – Principles

The AfCFTA shall be governed by the following principles:

(a) driven by Member States of the African Union;

(b) RECs' Free Trade Areas (FTAs) as building blocs for the AfCFTA;

(c) variable geometry;

(d) flexibility and special and differential treatment;

(e) transparency and disclosure of information;

(f) preservation of the acquis;

(g) Most-Favoured-Nation (MFN) Treatment;

(h) National Treatment;

(i) reciprocity;

(j) substantial liberalisation;

(k) consensus in decision-making; and

(l) best practices in the RECs, in the State Parties and International Conventions binding the African Union.

Article 6 – Scope

This Agreement shall cover trade in goods, trade in services, investment, intellectual property rights and competition policy.

Article 7 – Phase II Negotiations

1. In pursuance of the objectives of this Agreement, Member States shall enter into Phase II negotiations in the following areas:
   (a) intellectual property rights;
   (b) investment; and
   (c) competition policy.
2. The negotiations referred to in paragraph 1 of this Article shall commence after the adoption of this Agreement by the Assembly and shall be undertaken in successive rounds.

Article 8 – Status of the Protocols, Annexes and Appendices

1. 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 this Agreement.
2. 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 form part of the single undertaking, subject to entry into force.
3. Any additional instruments, within the scope of this Agreement, deemed necessary, shall be concluded in furtherance of the objectives of the AfCFTA and shall, upon adoption, form an integral part of this Agreement.

Part III – Administration and organisation

Article 9 – Institutional framework for the implementation of the AfCFTA

The institutional framework for the implementation, administration, facilitation, monitoring and evaluation of the AfCFTA shall consist of the following:

(a) the Assembly;

(b) the Council of Ministers;

(c) the Committee of Senior Trade Officials; and

(d) the Secretariat.

Article 10 – The Assembly

1. The Assembly, as the highest decision-making organ of the AU, shall provide oversight and strategic guidance on the AfCFTA, including the Action Plan for Boosting Intra-African Trade (BIAT).
2. The Assembly shall have the exclusive authority to adopt interpretations of this Agreement on the recommendation of the Council of Ministers. The decision to adopt an interpretation shall be taken by consensus.

Article 11 – The composition and functions of the Council of Ministers

1. The Council of Ministers is hereby established and shall consist of the Ministers responsible for Trade or such other ministers, authorities, or officials duly designated by the State Parties.
2. The Council of Ministers shall report to the Assembly through the Executive Council.
3. The Council of Ministers shall within its mandate:
    (a) take decisions in accordance with this Agreement;
    (b) ensure effective implementation and enforcement of the Agreement;
    (c) take measures necessary for the promotion of the objectives of this Agreement and other instruments relevant to the AfCFTA;
    (d) work in collaboration with the relevant organs and institutions of the African Union;
    (e) promote the harmonisation of appropriate policies, strategies and measures for the effective implementation of this Agreement;
    (f) establish and delegate responsibilities to ad hoc or standing committees, working groups or expert groups;
    (g) prepare its rules of procedure and those of its subsidiary bodies created for the implementation of the AfCFTA and submit them to the Executive Council for approval;
    (h) supervise the work of all committees and working groups it may establish pursuant to this Agreement;
    (i) consider reports and activities of the Secretariat and take appropriate actions;
    (j) make regulations, issue directives and make recommendations in accordance with the provisions of this Agreement;

(k) consider and propose for adoption by the Assembly, the staff and financial regulations of the Secretariat;

(l) consider the organisational structure of the Secretariat and submit for adoption by the Assembly through the Executive Council;

(m) approve the work programs of the AfCFTA and its institutions;

(n) consider the budgets of the AfCFTA and its institutions and submit them to the Assembly through the Executive Council;

(o) make recommendations to the Assembly for the adoption of authoritative interpretation of this Agreement; and

(p) perform any other function consistent with this Agreement or as may be requested by the Assembly.

4. The Council of Ministers shall meet twice a year in ordinary session and may meet as and when necessary in extraordinary sessions.

5. Decisions taken by the Council of Ministers, while acting within its mandate, shall be binding on State Parties. Decisions that have legal, structural or financial implications shall be binding on State Parties upon their adoption by the Assembly.

6. The State Parties shall take such measures as are necessary to implement the decisions of the Council of Ministers.

Article 12 – Committee of Senior Trade Officials

1. The Committee of Senior Trade Officials shall consist of Permanent or Principal Secretaries or other officials designated by each State Party.

2. The Committee of Senior Trade Officials shall:

(a) implement the decisions of the Council of Ministers as may be directed;

(b) be responsible for the development of programmes and action plans for the implementation of the Agreement;

(c) monitor and keep under constant review and ensure proper functioning and development of the AfCFTA in accordance with the provisions of this Agreement;

(d) establish committees or other working groups as may be required;

(e) oversee the implementation of the provisions of this Agreement and for that purpose, may request a Technical Committee to investigate any particular matter;

(f) direct the Secretariat to undertake specific assignments; and

(g) perform any other function consistent with this Agreement or as may be requested by the Council of Ministers.

3. Subject to directions given by the Council of Ministers, the Committee of Senior Trade Officials shall meet at least twice a year and shall operate in accordance with the rules of procedures as adopted by the Council of Ministers.

4. The Committee shall submit its report, which may include recommendations, to the Council of Ministers following its meetings.

5. The RECs shall be represented in the Committee of Senior Trade Officials, in an advisory capacity.

Article 13 – The Secretariat

1. The Assembly shall establish the Secretariat, decide on its nature, location and approve its structure and budget.
2. The Commission shall be the interim Secretariat, until it is fully operational;
3. The Secretariat shall be a functionally autonomous institutional body within the African Union system with an independent legal personality;
4. The Secretariat shall be autonomous of the African Union Commission;
5. The Funds of the Secretariat shall come from the overall annual budgets of the African Union;
6. The roles and responsibilities of the Secretariat shall be determined by the Council of Ministers of Trade.

Article 14 – Decision-making

1. Decisions of the AfCFTA institutions[1] on substantive issues shall be taken by consensus.
2. Notwithstanding paragraph 1, the Committee of Senior Trade Officials shall refer, for consideration by the Council of Ministers, matters on which it has failed to reach consensus. The Council of Ministers shall refer the matters to the Assembly where consensus could not be reached.
3. Decisions on questions of procedure shall be taken by a simple majority of State Parties, eligible to vote.
4. Decisions on whether or not a question is one of procedure shall also be determined by a simple majority of State Parties, eligible to vote.
5. Abstention by a State Party eligible to vote shall not prevent the adoption of decisions.

Article 15 – Waiver of obligations

1. In exceptional circumstances, the Council of Ministers may waive an obligation imposed on a State Party to this Agreement, upon request by a State Party, provided that any such decision shall be taken by three fourths[2] of the States Parties, in the absence of consensus.
2. A request for a waiver from a State Party concerning this Agreement shall be submitted to the Council of Ministers for consideration pursuant to the practice of decision-making by consensus. The Council of Ministers shall establish a time period, which shall not exceed ninety (90) days, to consider the request. If consensus is not reached during the time period, any decision to grant a waiver shall be taken by three fourths of the State Parties.
3. A decision by the Council of Ministers granting a waiver shall state the exceptional circumstances justifying the decision, the terms and conditions governing the application of the waiver, and the date on which the waiver shall terminate. Any waiver granted for a period of more than one (1) year shall be reviewed by the Council of Ministers not later than one (1) year after it is granted, and thereafter annually until the waiver terminates. In each review, the Council of Ministers shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Council of Ministers, on the basis of the annual review, may extend, modify or terminate the waiver.

1 The Assembly, the Council of Ministers and the Committee of Senior Trade Officials.

2 A decision to grant a waiver in respect of any obligation subject to a transition period or a period for staged implementation that the requesting State Party has not performed by the end of the relevant period shall be taken only by consensus.

Part IV – Transparency

Article 16 – Publication

1. Each State Party shall promptly publish or make publicly available through accessible mediums[3] its laws, regulations, procedures and administrative rulings of general application as well as any other commitments under an international agreement relating to any trade matter covered by this Agreement.
2. The provisions of this Agreement shall not require any State Party to disclose confidential information which would impede law enforcement or otherwise be contrary to public interest or will prejudice the legitimate commercial interest of particular enterprises, public or private.

Article 17 – Notification

1. Laws, regulations, procedures and administrative rulings of general application as well as any other commitments under an international agreement relating to any trade matter covered by this Agreement adopted after the entry into force of this Agreement shall be notified by State Parties in one (1) of the African Union working languages to other State Parties through the Secretariat.
2. Each State Party shall notify, through the Secretariat, in accordance with this Agreement, the other State Parties of any actual or proposed measure that the State Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other State Party's interests under this Agreement.
3. At the request of another State Party, a State Party, through the Secretariat, shall promptly provide information and respond to questions pertaining to an actual or proposed measure, irrespective of whether or not the other State Party was previously notified of that measure.
4. Any notification or information provided pursuant to this Article is without prejudice to whether the measure is consistent with this Agreement.

Part V – Continental preferences

Article 18 – Continental preferences

1. Following the entry into force of this Agreement, State Parties shall, when implementing this Agreement, accord each other, on a reciprocal basis, preferences that are no less favourable than those given to Third Parties.
2. A State Party shall afford opportunity to other State Parties to negotiate preferences granted to Third Parties prior to entry into force of this Agreement and such preferences shall be on a reciprocal basis. In the case where a State Party is interested in the preferences in this paragraph, the State Party shall afford opportunity to other State Parties to negotiate on a reciprocal basis, taking into account levels of development of State Parties.
3. This Agreement shall not nullify, modify or revoke rights and obligations under pre-existing trade agreements that State Parties have with Third Parties.

3 "For example through Gazette, newsletter, Hansard, or websites in one of the African Union languages."

Article 19 – Conflict and inconsistency with regional agreements

1. In the event of any conflict and inconsistency between this Agreement and any regional agreement, this Agreement shall prevail to the extent of the specific inconsistency, except as otherwise provided in this Agreement.
2. Notwithstanding the provisions of Paragraph 1 of this Article, State Parties that are members of other regional economic communities, regional trading arrangements and custom unions, which have attained among themselves higher levels of regional integration than under this Agreement, shall maintain such higher levels among themselves.

Part VI – Dispute settlement

Article 20 – Dispute settlement

1. A Dispute Settlement Mechanism is hereby established and shall apply to the settlement of disputes arising between State Parties.
2. The Dispute Settlement Mechanism shall be administered in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.
3. The Protocol on Rules and Procedures on the Settlement of Disputes shall establish, *inter alia,* a Dispute Settlement Body.

Part VII – Final provisions

Article 21 – Exceptions

No provision of this Agreement shall be interpreted as derogating from the principles and values contained in other relevant instruments for the establishment and sustainability of the AfCFTA, except as otherwise provided for in the Protocols to this Agreement.

Article 22 – Adoption, signature, ratification and accession

1. This Agreement shall be adopted by the Assembly.
2. This Agreement shall be open for signature and ratification or accession by the Member States, in accordance with their respective constitutional procedures.

Article 23 – Entry into force

1. This Agreement and the Protocols on Trade in Goods, Trade in Services, and Protocol on Rules and Procedures on the Settlement of Disputes shall enter into force thirty (30) days after the deposit of the twenty second (22^{nd}) instrument of ratification.
2. The Protocols on Investment, Intellectual Property Rights, Competition Policy and any other Instrument within the scope of this Agreement deemed necessary, shall enter into force thirty (30) days after the deposit of the twenty second (22^{nd}) instrument of ratification.
3. For any Member State acceding to this Agreement, the Protocols on Trade in Goods, Trade in Services, and the Protocol on Rules and Procedures on the Settlement of Disputes shall enter into force in respect of that State Party on the date of the deposit of its instrument of accession.

4. For Member States acceding to the Protocols on Investment, Intellectual Property Rights, Competition Policy, and any other Instrument within the scope of this Agreement deemed necessary, shall enter into force on the date of the deposit of its instrument of accession.
5. The Depositary shall inform all Member States of the entry into force of this Agreement and its Annexes.

Article 24 – Depositary

1. The Depositary of this Agreement shall be the Chairperson of the Commission.
2. This Agreement shall be deposited with the Depositary, who shall transmit a certified true copy of the Agreement to each Member State.
3. A Member State shall deposit an instrument of ratification or accession with the Depositary.
4. The Depositary shall notify Member States of the deposit of the instrument of ratification or accession.

Article 25 – Reservation

No reservations shall be made to this Agreement.

Article 26 – Registration and notification

1. The Depositary shall upon the entry into force of this Agreement, register it with the United Nations Secretary General in conformity with Article 102 of the Charter of the United Nations.
2. State Parties shall, where applicable notify this Agreement to the WTO individually or collectively.

Article 27 – Withdrawal

1. After five (5) years from the date of entry into force in respect of a State Party, a State Party may withdraw from this Agreement by giving written notification to State Parties through the Depositary.
2. Withdrawal shall be effective two (2) years after receipt of notification by the Depositary, or on such later date as may be specified in the notification.
3. Withdrawal shall not affect any pending rights and obligations of the withdrawing State Party prior to the withdrawal.

Article 28 – Review

1. This Agreement shall be subject to review every five (5) years after its entry into force, by State Parties, to ensure effectiveness, achieve deeper integration, and adapt to evolving regional and international developments.
2. Following the process of review, State Parties may make recommendations for amendments, in accordance with Article 29 taking into account experience acquired and progress achieved during the implementation of this Agreement.

Article 29 – Amendments

1. Any State Party may submit proposal(s) for amendment to this Agreement to the Depositary.

2. The Depositary shall within thirty (30) days of receipt of the proposal, circulate the proposal to State Parties and the Secretariat.
3. A State Party that wishes to comment on the proposal may do so within sixty (60) days from the date of circulation and submit the comments to the Depositary and the Secretariat.
4. The Secretariat shall circulate the proposal and comments received to members of the appropriate AfCFTA committees and sub-committees for consideration.
5. The relevant committees and sub-committees shall present, through the Secretariat, recommendations to the Council of Ministers, for consideration, following which a recommendation may be made to the Assembly through the Executive Council.
6. Amendments to the Agreement shall be adopted by the Assembly.
7. The amendments to this Agreement shall enter into force in accordance with Article 23 of this Agreement.

Article 30 – Authentic texts

This Agreement is drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all of which are equally authentic.

Annex 1

Schedules of Tariff Concessions

1. State Parties shall develop Schedules of Tariff Concessions in accordance with the approved modalities for tariff liberalisation.
2. The Schedules of Tariff Concessions shall, once adopted by the Assembly, be appended to this Annex and shall apply to trade among State Parties upon the entry into force of the Agreement in accordance with Article 23 of the Agreement.

Annex 2

Rules of Origin

Part I – Definitions

Article 1 – Definitions

For purposes of this Annex, the following definitions shall apply:

(a) “**Certificate of Origin**” means the documentary proof of origin issued by a Designated Competent Authority, confirming that a particular Product complies with the origin criteria applying to preferential trade under the Annex Protocol on Trade in Goods and in accordance with paragraph 1(a) of Article 17 of this Annex;

(b) “**Chapter**” means the two-digit Chapters code used in the nomenclature which makes up the Harmonised System;

(c) “**CIF Value**” means the price paid by the importer that includes the costs, insurance and freight needed to transport goods to a port of destination;

(d) "**Classified**" refers to the classification of a Product or Material under a particular Heading or Sub-heading of the Harmonised System;

(e) "**Consignment**" means products which are either sent simultaneously from one Exporter to one consignee or covered by a single transport document covering their shipment from the Exporter to the consignee or, in the absence of such a document, by a single invoice;

(f) "**Country of Origin**" means the State Party in which the Goods have been Produced or manufactured, according to the criteria laid down in this Annex;

(g) "**Customs Authority**" means the administrative authority responsible for administering Customs Laws in a State Party;

(h) "**Customs Value**" means the value as determined in accordance with the WTO Agreement on implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (WTO Agreement on customs valuation);

(i) "**Designated Competent Authority**" means a body or organisation designated by a State Party to issue Certificates of Origin;

(j) "**Exporter**" means any natural or legal person who exports goods to the Territory of another State Party, who is able to prove the origin of the Goods, whether or not that person is the manufacturer and whether or not that person carries out the export formalities;

(k) "**Ex-works Price**" means the price paid for the Product ex-works to the manufacturer in the States Party in whose undertaking the last working or processing is carried out, provided the price includes the value of all the Materials used minus any internal taxes paid which are, or may be, repaid when the Product obtained is exported;

(l) "**Free Trade Area**" means the territories of the State Parties of the African Continental Free Trade Area;

(m) "**Generally Accepted Accounting Principles (GAAPs)**" means a framework of accounting standards, rules and procedures defined by the accounting professional bodies and recognised by States Parties with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. Generally Accepted Accounting Principles may encompass broad guidelines for general application, as well as detailed standards, practices, and procedures [1];

(n) "**Goods**" means both Materials and Products;

(o) "**Heading**" means the four-digit Headings used in the nomenclature which makes up the Harmonized System (Harmonised System);

(p) "Manufacture" means any kind of working or processing including assembly or specific operations;

(q) "**Material**" means any ingredient, raw material, component or part used in the Manufacture of a Product;

(r) "**Origin Declaration**" means an appropriate statement as to the origin of the Goods made, in connection with their exportation by the manufacturer, Producer, supplier, Exporter or any other competent person on the commercial invoice or any other document relating to the Goods;

(s) "**Producer**" includes a mining, manufacturing or agricultural enterprise or any other individual grower or craftsman who supplies Goods for export;

(t) "**Product**" means the output of a manufacturing process, even if it is intended for later use in another manufacturing operation;

(u) "**Special Economic Arrangements/Zones**" means special regulatory provisions applicable in a geographical demarcation within a State Party's Territory where the legal, regulatory and fiscal and Customs schemes, applicable to business differ, generally in a more liberal way, from those in application in the rest of that State Party's Territory;

(v) "**Sub-heading**" means the six-digit code used in the nomenclature which makes up the Harmonized System;

1 This is an outstanding provision

(w) "**Territory**" means the State Party's Territory including the territorial sea as defined under the UN Convention on the Law of the Sea 1982 (UNCLOS);

(x) "**Value Added**" means the difference between the ex-works price of a finished Product and the Customs Value of the Material imported from outside the State Parties and used in the production[2]; and

(y) "**Value of Materials**" means the Customs Value at the time of importation of the non-originating Materials used, or if this is not known and cannot be ascertained, the first ascertainable price paid for the Materials in any State Party.

Part II – Purpose, objectives and origin conferring criteria

Article 2 – Purpose

The purpose of this Annex is to implement provisions of the Protocol on Trade in Goods concerning Rules of Origin and to ensure that there are transparent, clear and predictable criteria for determining eligibility for preferential treatment in the AfCFTA.

Article 3 – Objectives

The objectives of this Annex are to:

(a) deepen market integration at regional and continental levels;

(b) boost intra-Africa trade;

(c) promote regional and continental value chains; and

(d) foster economic transformation of the continent through industrialisation.

Article 4 – Origin conferring criteria

A Product shall be considered as originating from a State Party if it has:

(a) been wholly obtained in that State Party within the meaning of Article 5 of this Annex; or

(b) undergone substantial transformation in that State Party within the meaning of Article 6 of this Annex.

Article 5 – Wholly obtained products

1. The following Products shall be considered as wholly obtained in a State Party when exported to another State Party:

    (a) mineral Products and other non-living natural resources extracted from the ground, sea bed, below sea bed and in the Territory of a State Party in accordance with the provisions of UNCLOS;

    (b) plants, including aquatic plants and plant Products, vegetables and fruits, grown or harvested therein;

    (c) live animals born and raised therein;

    (d) Products obtained from live animals raised therein;

    (e) Products from slaughtered animals born and raised therein;

    (f) Products obtained by hunting and fishing conducted therein;

2 This definition is an outstanding provision

(g) Products of aquaculture including mariculture, where the fish, crustaceans, molluscs and other aquatic invertebrates are born and or raised therein from eggs, larvae, fry or fingerlings born or raised therein;

(h) Products of sea fishing and other Products taken from the sea outside the Territory of a State Party by their Vessels;

(i) Products made aboard their Factory Ships exclusively from Products referred to in subparagraph (h);

(j) used articles fit only for the recovery of Materials, provided that such articles have been collected therein;

(k) scrap and waste resulting from manufacturing operations therein;

(l) Products extracted from marine soil or sub-soil outside their territorial waters provided that it has sole rights to work that soil or sub-soil;

(m) Goods produced therein exclusively from the Products specified in subparagraphs (a) to (l); and

(n) electric energy produced therein.

2.

New proposal 1

[The terms "their vessels" and "their factory ships" in paragraph 1(h) and 1(i) shall apply only to vessels, leased vessels, bare boat and factory ships which are registered in a State Party in accordance with the national laws of a State Party and carry the flag of the State Party and, in addition, meet one of the following conditions:

(a) at least, 50 per centum of the officers of the vessel or factory ship are nationals of the State Party or State Parties; or

(b) at least, 50 per centum of the crew of the vessel or factory ship are nationals of the State Party or State Parties; or

(c) at least, [50/51] per centum of the equity holding in respect of the vessel or factory ship are held by nationals of the State Party or State Parties or institutions, agency, enterprise or corporation of the government of the State Party or State Parties]

New Proposal 2

[The terms "their vessels" and "their factory ships" in paragraph 1(h) and 1(i) shall apply only to vessels, leased vessels, bare boat and factory ships which are registered in a State Party in accordance with the national laws of a State Party and meet one of the following conditions:

(a) the vessel sails under the flag of a State Party; or

(b) at least, 50 per centum of the officers of the vessel or factory ship are nationals of the States Party or State Parties; or

(c) at least, 50 per centum of the crew of the vessel or factory ship are nationals of the State Party or States Parties; or

(d) at least, [50/51] per centum of the equity holding in respect of the vessel or factory ship are held by nationals of the State Party or State Parlies or institutions, agency, enterprise or corporation of the Government of the State Party or State Parties][3]

3 This Sub-Article is an outstanding provision

Article 6 – Sufficiently worked or processed Products

1. For purposes of Article 4(b) of this Annex, Products which are not wholly obtained are considered to be sufficiently worked or processed when they fulfil one of the following criteria:
   (a) Value Added;
   (b) non-originating Material content;
   (c) change in tariff Heading; or
   (d) specific processes.
2. Notwithstanding paragraph 1 of this Article, Goods listed in Appendix IV shall qualify as originating Goods if they satisfy the specific rules set out therein.

Article 7 – Working or processing not conferring origin

1. The following operations are insufficient to confer origin on a Product, whether or not the requirements of Article 4 of this Annex are satisfied:
   (a) operations exclusively intended to preserve Products in good condition during storage and transportation;
   (b) breaking-up or assembly of packages;
   (c) washing, cleaning or operations to remove dust, oxide, oil, paint or other coverings from a Product;
   (d) simple ironing or pressing operations;
   (e) simple painting or polishing operations;
   (f) husking, partial or total bleaching, polishing or glazing of cereals and rice;
   (g) operations to colour sugar or form sugar lumps, partial or total milling of crystal sugar;
   (h) peeling, stoning or shelling of vegetables of Chapter 7, fruits of Chapter 8, nuts of Heading 08.01 or 08.02 or groundnuts of Heading 12.02, fruits, nuts or vegetables;
   (i) sharpening, simple grinding or simple cutting;
   (j) simple sifting, screening, sorting, classifying, grading or matching;
   (k) simple packaging operations, such as placing in bottles, cans, flasks, bags, cases, boxes or fixing on cards or boards;
   (l) affixing or printing marks, labels, logos, and other like distinguishing signs on the Products or their packaging;
   (m) simple mixing of Materials, whether or not of different kinds; which does not include an operation that causes a chemical reaction;
   (n) simple assembling of parts of articles to constitute a complete article;
   (o) a combination of two or more operations specified in sub-paragraphs (a) to (n); and
   (p) slaughter of animals.
2. Notwithstanding any provision of this Annex, agricultural Products whether or not processed in anyway, obtained or partially obtained from Food Aid or monetisation or similar assistance measures, including arrangements based on non-commercial terms, shall not be considered as originating in a State Party.

3. For purposes of paragraph 1 of this Article, an operation shall be considered simple when neither special skills, nor machines, apparatus nor tools especially produced or installed for those operations are required for their performance or when those skills, machines, apparatus or tools do not contribute to the Product's essential characteristics or properties.

Article 8 – Cumulation of origin within the AfCFTA

1. For purposes of implementing this Article, all State Parties shall be considered as a single Territory.
2. Raw Materials or semi-finished Goods originating in any of the State Parties and undergoing working or processing in another State Party, shall be deemed to have originated in the State Party where the final processing or manufacturing takes place.
3. Working or processing carried out in any of the State Parties shall be considered as having been carried out in the State Parties when the Materials undergo further working or processing in a State Party.
4. Notwithstanding paragraphs 1 and 2 of this Article, Products further manufactured in a State Party shall be considered as originating in a State Party where the last manufacturing process takes place provided that the last working or processing operations exceed those operations under Article 7 of this Annex.

Article 9 – Goods produced under Special Economic Arrangements/Zones

1. Goods produced in Special Economic Arrangement/Zone shall be treated as originating Goods provided that they satisfy the rules in this Annex and in accordance with the provisions of Article 23.2 of the Protocol on Trade in Goods.
2. State Parties shall take all necessary measures to ensure that Products which are traded under the cover of proof of origin, and which during their transportation use a Special Economic Arrangement/Zone situated in their Territory, shall remain under the control of the Customs Authority and are not substituted by other Goods.
3. Notwithstanding paragraph 1 of this Article, where Products originating in a State Party which are imported into a Special Economic Arrangement/Zone under a proof of origin undergo processing or transformation, the competent Customs Authorities shall issue a new movement certificate at the request of the Exporter, if the processing or transformation carried out is in accordance with this Annex.[4]

Article 10 – Unit of qualification

1. The unit of qualification for the application of the provisions of this Annex shall be the particular Product, which is considered as a basic unit when determining classification.
2. For purposes of this Annex:
   (a) the tariff classification of a particular Product or Material shall be determined according to the Harmonized System;
   (b) a Product composed of a group or assembly of articles or components is classified pursuant to the terms of the HS under a single Heading or Sub-heading, the whole shall constitute a unit of qualification; and
   (c) where a shipment consists of a number of identical Products classified under the same Heading or Sub-heading of the Harmonised System, each Product shall be considered separately.

4 This Article is an outstanding provision

Article 11 – Treatment of packing

1. Where for purposes of assessing customs duties, a State Party treats Goods separately from their packing, it may also, in respect of its imports consigned from another State Party, determine separately the origin of such packing.
2. Where paragraph 1 of this Article is not applicable, packing shall be considered as forming a whole with the Goods and no part of any packing required for their transportation or storage shall be considered as having been imported from outside the State Party when determining the origin of the Goods as a whole.
3. For purposes of paragraph 2 of this Article, packing with which Goods are ordinarily sold at retail shall not be regarded as packing required for the transportation or storage of Goods.
4. Containers, which are used purely for the transportation and temporary storage of Goods and are to be returned shall not be subject to customs duties and other charges of equivalent effect. Where containers are not to be returned, they shall be treated separately from the Goods contained in them and be subject to import duties and other charges of equivalent effect.

Article 12 – Separation of materials

1. For Products or industries where it would be impracticable for the Producers to physically separate Materials of similar character but different origin used in the production of Goods, such separation may be replaced by an appropriate accounting system which ensures that no more Goods are deemed to originate in the State Party than would have been the case if the Producer had been able to physically separate the Materials.
2. Such accounting system shall conform to the conditions as may be agreed upon by the Sub-Committee on Rules of Origin, provided for under Article 38 of this Annex in order to ensure that adequate control measures shall be applied.

Article 13 – Accessories, spare parts and tools

Accessories, spare parts and tools despatched with a piece of equipment, machine, apparatus or vehicle, which are part of the normal equipment and included in the price thereof or which are not separately invoiced, shall be regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 14 – Sets

1. Sets as defined in General Rule 3 of the Harmonised System shall be regarded as originating when all component Products are originating.
2. Nevertheless, when a set is composed of originating and non-originating Products, the set as a whole shall be regarded as originating provided that the value of non-originating Products does not exceed 15% of the Ex-Works Price of the set.
3. The value of non-originating component Products shall be calculated in the same manner as the value of non-originating Materials.

Article 15 – Neutral elements

For purposes of determining whether a Product is originating, it shall not be necessary to determine the origin of the following, which might be used in its production:

(a) energy and fuel;

(b) plant and equipment;

(c) machines and tools; and

(d) Materials which do not enter and which are not intended to enter into the final composition of the Product.

Article 16 – Principle of territoriality

1. A Product that has undergone production that satisfies the requirements of Article 6 of this Annex shall be considered originating only if, subsequent to that production, the Product:

   (a) does not undergo further production or any other operation outside the territories of the State Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition, or to transport the Product to the Territory of a State Party; and

   (b) remains under customs control while outside the territories of the State Parties.

2. The storage of Products and shipments or the splitting of shipments that take place under the responsibility of the Exporter or of a subsequent holder of the Products while the Products remain under customs control in the country or countries of transit shall not affect the originating status of the product.

3. If an originating Product exported from a State Party to a Third Party returns, it shall be considered as non-originating, unless it can be proven to the satisfaction of the Customs Authorities that the returning Product:

   (a) is the same as that which was exported; and

   (b) has not undergone any operation beyond that which was necessary to preserve it in good condition.

Part III – Proof of origin

Article 17 – General requirements

1. Products originating in a State Party shall, on importation into another State Party, benefit from the provisions of the Protocol on Trade in Goods upon submission of either:

   (a) a Certificate of Origin, whether in hard or electronic copy in the form of Appendix I of this Annex. Issuance and acceptance of electronic Certificate of Origin shall be in accordance with each State Party's national legislation; or

   (b) in the cases specified in Article 19 of this Annex, a declaration, subsequently referred to as the "Origin Declaration", given by the Exporter on an invoice, a delivery note or any other commercial document which describes the Products concerned in sufficient detail to enable them to be identified.

2. The text of the Origin Declaration appears in Appendix II of this Annex.

3. Notwithstanding the provisions of paragraph 1 of this Article, originating Products within the meaning of this Annex shall, in the cases specified in Article 28 of this Annex concerning exemption from proof of origin, benefit from the Protocol on Trade in Goods without the requirement to submit any proof of origin.

4. A proof of origin shall be valid for twelve (12) months from the date of issue in the exporting State Party, and be submitted within the said period to the Customs Authorities of the importing State Party.

5. Proofs of origin which are submitted to the Customs Authorities of the importing State Party after the final date for presentation specified in paragraph 4 of this Article may be accepted where the failure to submit these documents by the date set is due to exceptional circumstances duly justified.

Article 18 – Submission of proof of origin

Proof of origin shall be prepared and submitted to the Customs Authorities of the importing State Party in any of the AU official languages and in accordance with the procedures applicable in that State Party. The said authorities may require a translation of such proof of origin.

Article 19 – Origin declarations

1. An Origin Declaration referred to in paragraph 1(b) of Article 17 of this Annex may be made out by:
   (a) an Approved Exporter within the meaning of Article 20 of this Annex; or
   (b) any Exporter for any Consignment consisting of one or more packages containing originating Products whose total value does not exceed five thousand United States dollars (USD5,000).
2. An Origin Declaration may be made out if the Products concerned can be considered as Products originating in the State Party and fulfil the other requirements specified in this Annex.
3. The Exporter making out an Origin Declaration shall submit at any time, at the request of the Designated Competent Authority of the exporting State Party, all appropriate documents proving the originating status of the Products concerned as well as the fulfilment of the other requirements specified in this Annex.
4. An Origin Declaration shall be made out by the Exporter by typing, stamping or printing on the invoice, the delivery note or another commercial document using one of the AU official languages and in accordance with the provisions of the national legislation of the exporting State Party. If the Origin Declaration is handwritten, it shall be written in ink in printed characters. Origin Declarations shall bear the original signature of the Exporter.
5. An Origin Declaration may be made out by the Exporter when the Products to which it relates are exported, or after exportation on condition that it is presented in the importing State Party no longer than twelve (12) months after the importation of the Products to which it relates as provided for under national legislation.

Article 20 – Approved Exporter

1. The Designated Competent Authorities of the exporting State Party may authorise any Exporter, hereinafter referred to as “Approved Exporter”, who frequently exports Products covered by this Annex and provides, to the satisfaction of the customs authorities, all the guarantees for verifying the originating status of Products as well as compliance with all other requirements specified in this Annex, to make out Origin Declarations regardless of the value of the Products concerned.
2. The Designated Competent Authority may grant the status of Approved Exporter subject to any conditions considered appropriate.
3. The Designated Competent Authority shall issue to the Approved Exporter an authorisation number, which must appear on the Origin Declaration.
4. The Designated Competent Authority shall monitor the use made of the authorisation by the Approved Exporter.
5. The Designated Competent Authority may withdraw the authorisation at any time. The Designated Competent Authority must do so when the Approved Exporter:
   (a) no longer provides the guarantees referred to in paragraph 1 of this Article;
   (b) no longer fulfils the conditions referred to in paragraph 2 of this Article; or

(c) otherwise makes improper use of the authorisation.

Article 21 – Issuance of Certificate of Origin

1. A Certificate of Origin shall be issued by the Designated Competent Authority of the exporting State Party on application having been made in writing by the Exporter or, under the Exporter's responsibility, by the authorised representative.
2. For this purpose, the Exporter or the authorised representative shall fill out the Certificate of Origin as an application form, as set out in Appendix I of this Annex. The application form shall be completed in accordance with the provisions of this Annex. Where it is handwritten, it shall be completed in ink in printed characters. The description of the Products must be given in the box reserved for this purpose without leaving any blank lines. Where the box is not completely filled, a horizontal line must be drawn below the last line of the description, the empty space being crossed through.
3. The Exporter applying for the issue of a Certificate of Origin shall submit at the request of the Designated Competent Authority of the exporting State Party where the Certificate of Origin is issued, all appropriate documents proving the originating status of the Products concerned as well as the fulfilment of the other requirements specified in this Annex.
4. The Designated Competent Authority shall take any steps necessary to verify the originating status of the Products and the fulfilment of the other requirements specified in this Annex.
5. For this purpose, the Customs Authority or Designated Competent Authority shall have the right to call for any evidence and to carry out any inspection of the Exporter's accounts or any other verification considered appropriate. The Customs Authority or Designated Competent Authority shall also ensure that the application form referred to in paragraph 1 of this Article is duly completed. In particular, the Customs Authority or Designated Competent Authority shall check whether the space reserved for the description of the Products has been completed in such a manner as to exclude all possibility of fraudulent additions.
6. The date of issue of the Certificate of Origin shall be indicated in the relevant box of the Certificate.
7. A Certificate of Origin shall be issued by the Designated Competent Authority and made available to the Exporter, to the best possible extent, before actual exportation has been effected.

Article 22 – Supporting documents

The documents, referred to in paragraph 3 of Article 21 of this Annex, to be submitted to the Designated Competent Authority of the exporting State Party may include documents relating to the following:

(a) production processes carried out on the originating Product or on Materials used in the production of that Product;

(b) purchase, cost, value of and payment for the Product;

(c) origin, purchase, cost, value of and payment for all Materials, including neutral elements, used in the production of the Product;

(d) shipment of the Product; and

(e) any other documents that the Designated Competent Authority may consider necessary.

Article 23 – Certificate of Origin issued retrospectively

1. Notwithstanding the provisions of paragraph 7 of Article 21 of this Annex, a Certificate of Origin may exceptionally be issued after exportation of the Products to which it relates if it:

   (a) was not issued at the time of exportation because of errors or involuntary omissions or special circumstances; or

   (b) is demonstrated to the satisfaction of the Designated Competent Authority that a Certificate of Origin was issued but was not accepted at importation for technical reasons.

2. For the implementation of paragraph 1 of this Article, the Exporter must indicate in the application the place and date of exportation of the products to which the Certificate of Origin relates and state the reasons for the request.

3. The Designated Competent Authority may issue a Certificate of Origin retrospectively only after verifying that the information supplied in the Exporter's application is consistent with that in the corresponding file.

4. A Certificate of Origin issued retrospectively must be endorsed with the following phrase: “ISSUED RETROSPECTIVELY”

5. The endorsement referred to in paragraph 4 of this Article shall be inserted in Box 3 of the Certificate of Origin.

Article 24 – Transitional provision for goods in transit or storage

Goods which comply with the provisions of this Annex and which, on the date of entry into force of the Agreement, are either in transit or temporary storage under customs warehouses or free zones of one of the State Parties, may be eligible for the provisions of this Annex subject to submission, within six (6) months of the said date, to the Customs Authorities of the importing State Party, of a Certificate of Origin issued retrospectively by the Designated Competent Authority of the exporting State Party together with documents showing that the Goods have been transported directly in accordance with the provisions of Article 30 of this Annex.

Article 25 – Issuance of a duplicate Certificate of Origin

1. In the event of theft, loss or destruction of a Certificate of Origin, the Exporter may apply to the Designated Competent Authority which issued the Certificate of Origin for a duplicate made out on the basis of the export documents in their possession.

2. The duplicate issued in this way must be endorsed with the following word: “DUPLICATE”

3. The endorsement referred to in paragraph 2 of this Article shall be inserted in Box 3 of the duplicate Certificate of Origin.

4. The duplicate, which must bear the date of issue of the original Certificate of Origin, shall take effect as from that date.

Article 26 – Issuance of a replacement Certificate of Origin

When originating Goods are placed under the control of a Customs Authority in one of the State Parties it may be possible to replace the Certificate of Origin by one or several certificate of movement of Goods in order to allow for the said Goods or part thereof to be sent elsewhere in the other State Parties. A replacement Certificate of Origin shall consequently be delivered to the Customs Authority under whose control the Goods were placed.

Article 27 – Importation by instalments

Where, at the request of the importer and on the conditions laid down by the Customs Authorities or Designated Competent Authorities of the importing State Party, dismantled or non-assembled products within the meaning of General Interpretative Rules of the Harmonized System are imported by instalments, a single proof of origin for such products shall be submitted to the Customs Authorities or Designated Competent Authority upon importation of the first instalment.

Article 28 – Exemption from proof of origin

1. The following Goods shall be admitted as originating products without requiring submission of a proof of origin:

    (a) originating products sent as small packages from private persons in a State Party to private persons in another State Party or forming part of traveller's personal luggage; and

    (b) imports which are occasional and consist of originating products for the personal use of the recipient or travellers or their families shall not be considered as commercial imports by way of trade.

2. The total value of the products referred to in paragraph 1 of this Article, shall not exceed five hundred United States Dollars (USD500) in the case of small packages or one thousand two hundred Unites States Dollars (USD1,200) in the case of products forming part of traveller's personal luggage as the case may be.

Article 29 – Fairs or exhibitions

1. Originating products sent for a fair or exhibition in a State Party and sold, at the end of the fair or exhibition, for the purpose of importation into one of the State Parties shall, at the time of importation, benefit from the provisions of this Annex, provided that there is satisfactory proof to the Customs Authorities that:

    (a) an Exporter has shipped the products from the State Party to another State Party of the fair or exhibition and has exhibited same therein;

    (b) the products have been sold or otherwise disposed of by that Exporter to a person in the State Party;

    (c) the products have been consigned during the fair or exhibition or immediately thereafter in the State Party in which they were sent for fairs and exhibitions; and

    (d) that from the time they were shipped for fairs or exhibitions, the products were not used for purposes other than for display at that fair or exhibition.

2. Proof of origin must be issued or made out in accordance with the provisions of Part III of this Annex and submitted under normal conditions to the Customs Authorities of the importing State Party. The name and address of the fair or exhibition must be indicated. If necessary, additional documentary evidence of the conditions under which they had been exhibited may be required.

3. Paragraph 1 of this Article shall apply to all exhibitions, fairs or similar public events of a commercial, industrial, agricultural or handicraft nature, other than those organised for private purposes in commercial premises or shops, and for the purpose of selling foreign products, during which the products remain under customs control.

Article 30 – Direct transportation

1. The preferential treatment provided for in this Annex applies only to products meeting the requirements specified in this Annex, which are transported directly between the territories of the State Parties or through those territories.
2. Notwithstanding paragraph 1 of this Article, the transportation of products constituting a single consignment may take place through other State Parties' territories, where appropriate, with transhipment or temporary storage in those territories, provided that the products remain under the supervision of the Customs Authorities of the State Party of transit or storage and that they are not subject to other operations other than unloading or reloading or any other operation intended to ensure their preservation as such.
3. Originating products may be transported by pipeline across territories other than those of the State Parties acting as exporting and importing State Parties.
4. Proof that the conditions referred to in paragraph 1 of this Article have been fulfilled shall be by providing the Customs Authorities of the importing State Party with either:
   (a) a single transport document covering the passage through the State Party of transit; or
   (b) a certificate issued by the Customs Authorities of the State Party of transit, containing:
      (i) an accurate description of the products;
      (ii) date of unloading and reloading of the products, with, where applicable, the names of the ships or other means of transport used; and
      (iii) certifying the conditions under which the products remained in the transit State Party;
   (c) or, failing that, any other relevant document.

Article 31 – Information and procedure for cumulation purposes

1. For purposes of paragraph 2 of Article 8 of this Annex, the proof of origin of the Materials coming from a State Party shall be given by a Certificate of Origin or an Origin Declaration in the form of Appendix I or II of this Annex.
2. For purposes of paragraph 3 of Article 8 of this Annex, the evidence of the working or processing shall be given by the supplier or Producer's declaration, in the State Party in which the Materials are exported in the form set out in Appendix III of this Annex.
3. A Certificate of Origin issued pursuant to Article 8 of this Annex shall be endorsed with the word: "CUMULATION."
4. The endorsement referred to in paragraph 3 of this Article shall be inserted in Box 3 of the Certificate of Origin.
5. In addition to the supporting documents referred to in paragraph 2 of this Article, the bill of lading, together with the catch certificates shall accompany the Certificate of Origin.

Article 32 – Preservation of records

1. An Exporter who has applied for the issuance of a Certificate of Origin shall keep a copy of the application, as well as the supporting documents referred to in Article 22 of this Annex, for at least five (5) years after the completion of the application.

2. An importer that has been granted preferential tariff treatment shall keep documentation relating to the importation of the Product, including a copy of the Certificate of Origin, for at least five (5) years after the date on which preferential treatment was granted.
3. A State Party may deny preferential tariff treatment to a Product that is the subject of an origin verification when the importer, Exporter, or Producer of the Product that is required to maintain records or documentation under this Article:
   (a) fails to maintain records or documentation relevant to determining the origin of the Product in accordance with the requirements of this Annex; or
   (b) denies access to those records or documentation.
4. The Designated Competent Authority of the exporting State Party issuing a Certificate of Origin shall keep for at least five (5) years the copy of the issued Certificate.
5. The Designated Competent Authority of the importing State Party shall keep for at least five (5) years the Certificate of Origin submitted to them.

Article 33 – Discrepancies and formal errors

1. The discovery of slight discrepancies between the statements made in the Certificate of Origin and those made in the documents submitted to the Customs Authorities or Designated Competent Authority for the purpose of carrying out the formalities for importing the products shall not, because of that fact, render the Certificate of Origin null and void if it is established that the Certificate of Origin corresponds to the products submitted.
2. Obvious formal errors such as typing errors on a Certificate of Origin shall not cause the Certificate of Origin to be rejected if the errors do not create doubts concerning the correctness of the statements made in the document.

Part IV – Administrative cooperation

Article 34 – Notifications

1. The State Parties shall cooperate in the uniform administration and interpretation of this Annex and, through their Designated Competent Authorities, assist each other in verifying the origin of the products on which a Certificate of Origin is based.
2. For purposes of facilitating the verification or assistance referred to in paragraph 1 of this Article, the Designated Competent Authorities of the State Parties shall, through the Secretariat, exchange their respective addresses and the specimen of the stamps and signatures used in their offices for the issuance of the Certificates of Origin.
3. For purposes of paragraph 1 of this Article, the Designated Competent Authority of the exporting State Party shall assume all expenses in carrying out the obligations provided thereof.
4. It is further understood that the Designated Competent Authority of the State Parties shall, from time to time, consider the overall operation and administration of the verification process, including forecasting of workload and setting priorities. If there is an unusual increase in the number of requests, the Designated Competent Authority of the State Parties shall establish priorities and take the necessary steps to manage the workload, taking into account operational requirements.
5. State Parties shall notify each other immediately, through the Secretariat, with respect to any changes in requirements stated in paragraph 2 of this Article.
6. State Parties shall notify each other immediately, through the Secretariat, of the Approved exporters as provided in Article 20 of this Annex.

Article 35 – Mutual assistance

1. In order to ensure the proper application of this Annex, State Parties shall assist each other, through the Customs Authorities or Designated Competent Authorities, in checking the authenticity of the Certificate of Origin, the Origin Declaration or the supplier's declarations and the correctness of the information given in these documents.
2. State Parties' authorities shall, upon request, furnish the relevant information concerning the conditions under which the Product has been made, indicating especially the conditions in which the rules of origin were complied with in the requested State Parties.

Article 36 – Verification of proof of origin

1. Subsequent verifications of proof of origin shall be carried out at random or based on risk analysis or whenever the Customs Authorities of the importing State Party have reasonable doubts as to the authenticity of such documents, the originating status of the products concerned or the fulfilment of the other requirements of this Annex.
2. For purposes of implementing the provisions of paragraph 1 of this Article, the Customs Authorities of the importing State Party shall return the Certificate of Origin and the invoices, if they have been submitted, or a copy of these documents, to the Customs Authorities of the exporting State Party giving, where appropriate, the reasons for the request for verification. Any documents and information obtained suggesting that the information given on the proof of origin is incorrect shall be forwarded in support of the request for verification.
3. The verification shall be carried out by the Customs Authorities of the exporting State Party and the results of such verification shall be communicated to the requesting authority or State Party as soon as possible and in any case no later than six (6) months. These results must indicate clearly whether the documents are authentic and whether the Products concerned can be considered as Products originating in a State Party. For this purpose, the Customs Authorities of the exporting State Party shall have the right to call for any evidence and to carry out any inspection of the exporter's accounts or any other check the authorities may consider appropriate.
4. If the Customs Authorities of the importing State Party decide to suspend the granting of preferential treatment to the Products concerned while awaiting the results of the verification, release of the Products shall be offered to the importer subject to any precautionary measures considered necessary.
5. In the case of any reasonable doubt, or where there is no reply within six (6) months of the date of the verification request or if the reply does not contain sufficient information to determine the authenticity of the document in question or the real origin of the products, the requesting authority or State Party may, except in exceptional circumstances, refuse entitlement to the preferences.
6. Where the verification procedure or any other available information appears to indicate that the provisions of this Annex are being contravened, the exporting State Party on its own initiative or at the request of the importing State Party shall carry out appropriate enquiries or arrange for such enquiries to be carried out with due urgency to identify and prevent such contraventions and for this purpose the exporting State Party concerned may invite the participation of the importing State Party in these enquiries.

Article 37 – Penalties

State Parties shall, through national legislation, provide for penalties, where any person draws up, or causes to be drawn up, or uses, a document which contains information which the person knows to be false for the purpose of obtaining a preferential treatment for Products.

Article 38 – Sub-Committee on Rules of Origin

1. The Committee on Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Rules of Origin.
2. The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under this Annex or by the Committee on Trade in Goods.

Part V – Final provisions

Article 39 – Appendices

The Appendices annexed to this Annex shall form an integral part hereof.

Article 40 – Dispute settlement

Any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of this Annex and its Guidelines, shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

Article 41 – Review and amendment

This Annex shall be subject to review and amendments in accordance with Articles 28 and 29 of the Agreement.

Article 42 – Transitional arrangements

1. State Parties agree that the following issues are outstanding:
   (a) Implementing decisions on the definitions of "Value Added" in Article 1 (x) and requirements for "their vessels" and "their factory ships" in Article 5(2) and criteria and issues pertaining to Special Economic Arrangements/Zones In Article 9 in Annex 2 on Rules of Origin;
   (b) Drafting of additional definitions in Annex 2 on Rules of Origin;
   (c) Drafting hybrid rules in Appendix IV to Annex 2 on the Rules of Origin;
   (d) Drafting Regulations for Goods produced under Special Economic Arrangements/Zones;
   (e) Drafting of additional provisions in Annex 2 on Rules of Origin on value tolerance, absorption principle and accounting segregation/GAAP; and
   (f) Drafting AfCFTA Rules of Origin Manuals/Guidelines.
2. The outstanding provisions referred to in paragraph 1 of this Article shall, upon adoption by the Assembly, form an integral part of this Annex.
3. Pending the adoption of the outstanding provisions, State Parties agree that the Rules of Origin in existing trade regimes shall be applicable.

Appendix I (Article 19(1)(a))

AfCFTA Certificate of Origin

Notes for completing the AfCFTA Certificate of Origin

The numbered boxes of the Certificate of Origin must be completed as follows:

Box 1

The Exporter must be a natural or legal person ordinarily resident in a State Party or a person whose place of business is in a State Party.

In addition, the Exporter's registration number should be inserted, where applicable.

Box 2

Insert the name and office address of the consignee in the State Party of destination.

Box 3

To be completed by the issuing authority inserting one or more of the following endorsements where necessary:

a) "Duplicate" (where application is made for a Duplicate AfCFTA Certificate of Origin)

b) "Issued Retrospectively" (where the Goods have been exported before application is made for a certificate and application is made for the retrospective issue thereof)

c) "Replacement"(where application is made for a Replacement AfCFTA Certificate of Origin)

d) "Cumulation"

Box 4

Insert particulars of transport details for the vehicle, train, ship, aircraft or other vessel used in removing Goods from the last port in the exporting State Party.

Box 5

a) Enter identifying marks and numbers on the packages against each Good being exported.

b) If the packages are not marked, state "No Marks and Numbers" or "As Addressed".

c) For Goods in bulk that are not packed, insert "In Bulk".

d) The quantity stated must agree with the quantities on the invoice.

e) Where both originating and non-originating Goods are packed together, describe only the originating Goods and add at the end "Part Contents Only".

Box 6

Insert serial numbers of invoices, their dates, values and Incoterms, issued for the Goods.

Box 7

State the number of type of packaging containing the Goods.

Box 8

The Goods must be identified by giving a reasonably full commercial description in order for the appropriate HS Code to be determined.

Box 9

Insert the gross weight of the Goods that should correspond with the transporters' documents.

Box 10

State an additional statistical measure as may be applicable under the chosen HS Code

Box 11

Enter the six-digit HS Code in respect of each line of Goods described in Box 8.

Box 12

Insert the appropriate Origin Criteria Code applicable to the Goods being exported.

Origin Criteria Code	Origin Criteria description
WP	Wholly produced (Article 5)
SV	Substantial transformation — Value Added Content (Article 6.1(a))
SM	Substantial transformation — Material Content (Article 6.1(b))
SX	Substantial transformation — Change of Tariff Heading (Article 6.1(c))
SP	Substantial transformation — Process Rule (Article 6.1(d))
SC	Substantial transformation — Cumulation; and state the States Parties with which Cumulation was used. (Article 8)

Box 13

a) The Exporter, or the authorized representative, must complete all details required for a complete declaration of the correctness of the application for a Certificate of Origin.

b) The signature must not be mechanically reproduced or made with a rubber stamp but can be electronically inserted or replaced with an electronic identifying code in accordance with the national laws of each State Party.

Box 14

This must be filled by the Designated Competent Authority in the State Party of export. An officer of the authority must print all the details required and date-stamp the Certificate of Origin in the space provided by imprinting thereon the special stamp issued for this purpose and has been circulated to the Customs Administrations in all State Parties except where the Certificate of Origin is being validated electronically.

Box 15

The Customs Officer at the port of clearance or exit must insert the export document number, date and office of clearance as provided.

General

a) The AfCFTA Certificate of Origin shall be rendered invalid if:

   (i) (any entered particulars are incorrect and not in accordance with the provisions of this Annex;

   (ii) it contains any erasures or words written over one another;

   (iii) altered, unless any alterations are made by deleting the incorrect particulars, by adding any necessary corrections and such alterations are initialled by the person who completed the certificate and endorsed by the officer who signs the certificate.

b) Where applicable quote the Designated Competent Authority's file registration/reference number at the top of the Certificate of Origin.

c) Draw a horizontal line under the only or final item in Boxes 5 -12 and rule through the unused space with a Z-shaped line or otherwise cross it through.

d) Where the space provided is inadequate please attach an additional page to provide the required details.

Certificates

[Please note: The certificates have not been reproduced. Please refer to the publication document.]

Appendix II

African Continental Free Trade Area(Article 19(1)(b))

Origin Declaration

The text of the Origin Declaration must be made as given below:

I / We, _____, being the Exporter of the (Approved Exporter's Name and Registration Number) Goods covered by this document declare(s) that, the Goods are of _____ origin *(indicate the African Continental Free Trade Area State Party)* and the origin criterion applicable to these Goods _____ is _____ *(insert wholly obtained or substantially transformed, as may be applicable.)*

_____

Place and Date of Declaration

_____

Authorised Exporter's Signature

Appendix III

African Continental Free Trade Area Supplier or Producer's Declaration (Article 31(2))

A – Supplier or Producer's Declaration for products having preferential origin status

I, the undersigned, declare that the Goods listed on invoice _____ (1) were produced in _____ (2) and satisfy the rules of origin governing preferential trade between the African Continental Free Trade Area State Parties.

I undertake to make available to the Designated Competent Authority, if required, evidence in support of this declaration.

_____ (3)

_____ (4)

_____ (5)

Note

The abovementioned text, suitably completed in conformity with the footnotes below, constitutes a supplier's declaration.

The footnotes do not have to be reproduced.

(1)
- If only some of the Goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows:

  "_____ listed on this invoice and marked _____ were produced in _____".
- If a document other than an invoice or an annex to the invoice is used, the name of the document concerned shall be mentioned instead of the word "invoice".

(2) African Continental Free Trade Area State Party.

(3) Place and Date.

(4) Name and Designation in the Company.

(5) Signature.

B – Supplier or producer's declaration for products not having preferential African Continental Free Trade Area origin status

I, the undersigned, declare that the Goods listed on this invoice _____ (1) were produced in _____ (2) and incorporate the following components or Materials which do not have an African Continental Free Trade Area origin for preferential trade:

_____ (3)

_____ (4)

_____ (5)

_____ (6)

I undertake to make available to the Designated Competent Authority, if required, evidence in support of this declaration.

_____ (7)

_____ (8)

_____ (9)

Note

The abovementioned text, suitably completed in conformity with the footnotes below, constitutes a supplier's declaration.

The footnotes do not have to be reproduced.

(1) If only some of the Goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows: " _____ listed on this invoice and marked _____ were produced in _____".

If a document other than an invoice or an annex to the invoice is used, the name of the document concerned shall be mentioned instead of the word "invoice".

(2) African Continental Free Trade Area State Party.

(3) Description is to be given in all cases. The description must be adequate and should be sufficiently detailed to allow the tariff classification of the Goods concerned to be determined.

(4) Customs values to be given only if required.

(5) Country of Origin to be given only if required. The origin to be given must be a preferential origin, all other origins to be given as "third country".

(6) "and have undergone the following processing in African Continental Free Trade Area State Party _____, to be added with a description of the processing carried out if this information is required.

(7) Place and Date

(8) Name and Designation in the Company

(9) Signature

Appendix IV

AfCFTA Rules of Origin

[to be inserted]

Annex 3

Customs Co-operation and Mutual Administrative Assistance

Article 1 – Definitions

For purposes of this Annex, the following definitions shall apply:

(a) "**Customs**" means the Government service responsible for the administration of the Customs Law and the collection of duties and taxes and which also has the responsibility for the application of other laws and regulations relating to the importation, exportation, movement or storage of goods;

(b) "**Customs Authority**" means the administrative authority responsible for administering Customs Laws in a State Party;

(c) "**Customs Cooperation**" means collaboration among Customs Authorities aimed at the simplification of procedures and the improvement of Trade Facilitation, with the intention to enhance regulation of trade flows and enforcement of applicable laws in the State Parties by establishing international customs standards and harmonised customs procedures as outlined in this Annex;

(d) "**Customs Law**" means the statutory and regulatory provisions related to importation, exportation and movement or storage of goods, the administration and enforcement of which are specifically charged to the Customs Authorities and any regulations made by the Customs Authorities under their statutory powers;

(e) "**Customs Offence**" means any breach or attempted breach of Customs Laws of a State Party;

(f) "**Mutual Administrative Assistance**" means actions of a Customs Authority on behalf of or in collaboration with another Customs Authority for the proper application of Customs Laws and for the prevention, investigation and repression of Customs Offences;

(g) "**Trade Facilitation**" means the simplification and harmonisation of international trade procedures, including activities, practices, and formalities involved in collecting, presenting, communicating, and processing data required for the movement of goods in international trade.

Article 2 – Objectives and scope

1. State Parties, through their Customs Authorities, and in accordance with the provisions set out in this Annex, shall afford each other:

   (a) cooperation in all areas of Customs administration aimed at improving the regulation of trade flows and the enforcement of applicable laws within the State Parties, by:

      (i) providing for common measures for which State Parties are encouraged to comply with in the formulation of their Customs Law and procedures; and

      (ii) establishing appropriate institutional arrangements at continental, regional and national levels.

   (b) Mutual Administrative Assistance within the scope of this Annex to:

      (i) ensure that the Customs Law in their territories are observed;

      (ii) prevent, investigate and combat customs offences;

      (iii) make available documents necessary for the application of Customs Law;

      (iv) facilitate the simplification and harmonisation of their customs procedures; and

      (v) ensure the smooth flow of trade and the integrity of the international supply chain.

2. State Parties shall cooperate in the form of Mutual Administrative Assistance in accordance with the framework of the Agreement within their competence and available resources of their Customs Authorities.

3. Cooperation in Customs matters shall apply to any administrative authority of State Parties that is competent in matters covered by Customs Law. This co-operation shall be channeled through the Customs Authorities of the State Parties.

4. The provisions of this Annex shall not provide a right on the part of any private person to obtain, suppress or exclude any evidence or to impede the execution of a request.

Article 3 – Harmonisation of customs tariff nomenclatures and statistical nomenclatures

1. The Council of Ministers may allow exceptions in the application of the provisions of this Article as would be allowed in the application of the provisions of the Harmonised System (HS) convention, provided that it is satisfied that such exceptions will not hinder the comparison of customs tariffs and trade statistics among State Parties.

2. Subject to the exceptions referred to in paragraph 1 of this Article:

   (a) each State Party undertakes to adopt customs tariff nomenclatures and statistical nomenclatures which are in conformity with the applicable version of the HS. Accordingly, in respect of its nomenclatures, each State Party shall:

      (i) use all the headings and sub-headings of the HS without addition or modification, together with their related numerical codes;

      (ii) apply the general rule for the interpretation of the HS;

      (iii) follow the numerical sequence of the HS; and

   (b) each State Party shall regularly publish, in a format that is easily accessible, its import and export trade statistics in conformity with the six-digit codes of the HS, or at the initiative of the State Party, beyond that level, unless publication is precluded for exceptional reasons such as commercial confidentiality or national security.

3. In complying with the undertakings in paragraph 2(a) of this Article, each State Party may make such textual adaptations as may be necessary to give effect to the HS in its domestic law.

4. Nothing in this Article shall prevent a State Party from establishing, in its customs tariff or statistical nomenclatures, sub-divisions classifying goods beyond the six-digit level of the HS, provided that such sub-divisions are as set out in the HS.

Article 4 – Harmonisation of valuation systems and practices

State Parties undertake to adopt a system of valuing goods for customs purposes based on the principles of non-discrimination, transparency and uniform application of such a system in accordance with Article VII of GATT on Valuation for Customs Purposes.

Article 5 – Simplification and Harmonisation of Customs Procedures

1. State Parties are encouraged to cooperate on the use of relevant international standards or parts thereof as a basis for their import, export or transit formalities and procedures except as otherwise provided for in this Annex.

2. Pursuant to paragraph 1 of this Article, State Parties undertake:

   (a) that their respective Customs Laws and procedures shall be based on internationally accepted instruments and standards, practices and guidelines applicable in the field of customs and trade such as the Revised Kyoto Convention on the Simplification and Harmonisation of Customs Procedures and WTO Trade Facilitation Agreement;

   (b) to use internationally accepted standards, practices and guidelines, as a basis for designing and standardising their trade documents and the information required to be contained in such documents; and

   (c) the principles of promotion and facilitation of legitimate trade through effective enforcement of commitments contained in this Annex.

Article 6 – Automation of customs operations

1. State Parties undertake to establish, use and continually upgrade modern data processing systems to facilitate effective and efficient Customs operations and transmission of trade data amongst themselves.
2. State Parties are encouraged to ensure that their respective Customs Authorities shall:

   (a) use internationally accepted standards, especially those adopted by the World Customs Organisation (WCO);

   (b) develop or adopt interconnectivity of computerised Customs clearance and information systems in collaboration with stakeholders; and

   (c) facilitate the exchange of data with stakeholders.

Article 7 – Advance exchange of information

1. State Parties shall endeavour to exchange information covered by this Annex in advance of the arrival of persons, goods and means of transport in their respective territories, which may be done manually or electronically on an automatic basis.
2. State Parties may, electronically on an automatic basis under set terms and conditions consistent with the Agreement, exchange any information covered by this Annex in advance of the arrival of persons, goods and means of transport in the territory of another State Party

Article 8 – Prevention, investigation and suppression of customs offences

1. State Parties shall co-operate in the prevention, investigation and suppression of Customs offences. In this regard, each State Party shall designate and inform other State Parties of its Customs contact point.
2. For purposes of paragraph 1 of this Article, State Parties shall:

   (a) exchange lists of Goods the importation of which is prohibited in their respective territories;

   (b) prohibit the exportation of Goods referred to in sub-paragraph (a) of this paragraph to the relevant territories;

   (c) in cases where they share a common border:

      (i) exchange lists of Customs offices located along the common border together with details of their powers, working hours, and any changes thereto;

      (ii) consult each other on the establishment of border posts in close proximity to each other and take such steps as may be appropriate to ensure goods pass through those border posts and along jointly approved routes; and

(iii) endeavour to align the capabilities and harmonise the working hours of their corresponding Customs offices; and

(d) maintain special surveillance over the following:

(i) entry into, sojourn in, and exit from their territories of persons reasonably suspected of involvement in activities that are contrary to the Customs Laws of any State Party;

(ii) movement of goods reasonably suspected of being the subject of illegal traffic;

(iii) places in proximity to the border where stocks of goods have been built up causing reasonable suspicion of being used for illegal cross-border trade; and

(iv) vehicles, ships, aircraft, or other means of transport under reasonable suspicion of being used to commit Customs Offences in any State Party.

3. State Parties shall provide, upon request, and without delay, all available information regarding:

(a) operations which cause reasonable suspicion of the commission of Customs Offences in any State Party;

(b) persons, vehicles, ships, aircraft and other means of transport reasonably suspected of involvement in activities that may violate the Customs Laws of any State Party;

(c) Goods known to be the subject of illegal traffic;

(d) Customs documents relating to importation and exportation of goods which are reasonably suspected of being in violation of the Customs Laws of the requesting State Party;

(e) Customs documents relating to such exchange of goods between State Parties that are suspected of being in violation of the Customs Law of the requesting State Party; and

(f) Certificates of Origin, invoices or any other documents, that are or reasonably suspected to be forged or otherwise fraudulently produced.

Article 9 – Request, exchange and provision of information

1. In case of reasonable doubt as to the truthfulness or accuracy of an import or export declaration, State Parties shall, upon request and subject to the provisions of this Article, promptly provide all necessary information orally or in writing or through any other appropriate means including specific information as set out in, but not limited to the import or export declaration, commercial invoice, packing list, certificate of origin and bill of lading. This shall not affect the right of the economic operators to confidentiality and privacy under the relevant national law.

2. In order to ensure the effective implementation of paragraph 1 of this Article, and upon entry into force of the Agreement, each State Party shall notify the details of the responsible national contact points to the Secretariat.

3. Before submitting a request for information, a State Party shall undertake all necessary verifications relating to the relevant import or export declaration.

4. Each State Party undertakes, whenever expressly requested by another State Party, to:

(a) make enquiries, record statements and obtain evidence concerning a Customs Offence under investigation in the requesting State Party and transmit the results of the enquiry and any documents or other evidence, to the requesting State Party; and

(b) notify the competent authorities of the requesting State Party of actions and decisions taken by the competent authorities of the State Party where the alleged Customs Offence took place in accordance with the law in force in that State Party.

5. The requesting State Party shall take into account the associated resource and cost implications for the requested State Party in responding to requests for information. In doing so, the requesting State Party shall consider the proportionality between its fiscal interest in pursuing its request and the efforts to be made by the requested State Party in providing the information.
6. Modalities for the implementation of this Article shall be subject to arrangements to be made on a case by case basis between the requesting and the requested State Parties.

Article 10 – Protection and confidentiality

To ensure the protection and confidentiality of information requested, pursuant to this Annex, the requesting State Party shall:

(a) grant the requested information the same level of confidentiality as that which is provided under the domestic law of the requested State Party;

(b) use the information solely for the purpose stated in the request;

(c) not disclose the information without the written consent of the requested State Party;

(d) not use any unverified information as the deciding factor towards alleviating the doubt in any given circumstance;

(e) respect any case-specific conditions set out by the requested State Party regarding retention and disposal of confidential information and personal data; and

(f) upon request, inform the requested State Party of any decisions and actions taken on the matter as a result of the information provided.

Article 11 – Technical cooperation

1. In order to continue to enhance their capacities in customs matters, State Parties shall endeavour to:
    (a) develop joint training programmes;
    (b) exchange staff and share training facilities and resources;
    (c) exchange professional, scientific and technical data relating to Customs Laws and procedures;
    (d) support each other in the modernisation of customs procedures including e-customs and electronic data interchange applications;
    (e) support each other in the implementation of trade facilitation measures and simplification of customs procedures; and
    (f) exchange any other data that can assist Customs Authorities with risk management for control and facilitation purposes.
2. States Parties shall notify the Secretariat of all activities undertaken pursuant to paragraph 1 of this Article.

Article 12 – Communication of Customs Information

1. State Parties shall exchange information on matters relating to customs particularly on the following:
    (a) changes in Customs Law or any other relevant domestic legislation, procedures and duties and commodities subject to import or export restrictions;
    (b) information relating to the prevention, investigation and suppression of Customs Offences;

(c) information required to implement and administer Customs Laws and regulations; and

(d) any other information deemed necessary by the Sub-Committee.

2. For purposes of paragraph 1 of this Article, State Parties may adopt loose-leaf editions of national customs tariff schedules.

Article 13 – Sub-Committee on Trade Facilitation, Customs Cooperation and Transit

1. The Committee on Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Trade Facilitation, Customs Cooperation and Transit.

2. The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under this Annex or by the Committee on Trade in Goods.

Article 14 – Dispute settlement

Any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of this Annex shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

Article 15 – Review and amendment

This Annex shall be subject to review and amendments in accordance with Articles 28 and 29 of the Agreement.

Annex 4

Trade Facilitation

Article 1 – Definitions

For purposes of this Annex, the following definitions shall apply:

(a) "**Advance Ruling**" means a written decision provided by a State Party to an applicant prior to the importation of goods covered by the application that sets forth the treatment that the State Party shall provide to the good at the time of importation;

(b) "**Applicant**" in relation to advance rulings means the exporter, importer, producer or any person with justifiable cause or a representative thereof;

(c) "**Customs Law**" means the statutory and regulatory provisions related to importation, exportation and movement or storage of goods, the administration and enforcement of which are specifically charged to the Customs Authorities and any regulations made by the Customs Authorities under their statutory powers;

(d) "**Expedited shipments**" means those goods which require rapid clearance as a matter of priority due to their nature or because they are meant to meet a justified urgent need;

(e) "**Perishable goods**" means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions;

(f) "**Release of Goods**" means the action by Customs to permit goods undergoing clearance to be placed at the disposal of the persons concerned;

(g) "**Risk management**" means the systematic identification of risk and implementation of all measures necessary for limiting exposure to risk;

(h) "**Single window**" means a facility that allows parties involved in trade and transport to lodge standardised information and documents with a single entry point to fulfil all import, export and transit-related regulatory requirements, and in the case of electronic information, the single submission of individual data elements;

(i) "**Trade Facilitation**" means the simplification and harmonisation of international trade procedures, including activities, practices, and formalities involved in collecting, presenting, communicating, and processing data required for the movement of goods in international trade; and

"**Transit**" means the Customs procedure under which goods are transported under Customs control from one Customs office to another.

Article 2 – Objectives

The objectives of this Annex are to:

(a) simplify and harmonise international trade procedures and logistics to expedite the processes of importation, exportation and transit; and

(b) expedite the movement, clearance and release of goods including goods in transit across borders within State Parties.

Article 3 – General principles

The provisions of this Annex shall be interpreted and applied in accordance with the principles of transparency, simplification, harmonisation and standardisation of Customs Law, procedures and requirements.

Article 4 – Publication

1. Each State Party shall, to the extent possible, promptly publish on the internet the following information in a non-discriminatory and easily accessible manner in order to enable State Parties, traders, and other interested parties to become acquainted with them:

    (a) a description of procedures and practical steps needed for importation, exportation, and transit, including port, airport, and other entry-point procedures, and required forms and documents;

    (b) the documentation and data it requires, and the form that needs to be completed for import into, export from, or transit through its territory;

    (c) its laws, regulations, and procedures for import into, export from or transit through its territory;

    (d) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

    (e) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

    (f) rules for the classification or valuation of products for customs purposes;

    (g) laws, regulations, and administrative rulings of general application relating to rules of origin;

    (h) import, export or transit restrictions or prohibitions;

    (i) penalty provisions for breaches of import, export, or transit formalities;

    (j) procedures for appeal or review;

    (k) agreements or parts thereof with any country or countries relating to importation, exportation, or transit;

    (l) procedures relating to the administration of tariff quotas;

(m) contact information for its enquiry point or points designated or maintained pursuant to Article 5 of this Annex; and

(n) import and export guidelines.

2. State Parties shall be free to make this information available by any other means.

Article 5 – Enquiry points

1. Each State Party shall establish and maintain one or more enquiry points to answer reasonable enquiries of State Parties, traders and other interested parties on matters covered in Article 4 of this Annex.

2. Each State Party shall ensure that its enquiry points respond to enquiries within a reasonable period of time.

3. State Parties shall notify the Secretariat of the contact information of the enquiry points referred to in paragraph 1 of this Article.

Article 6 – Advance rulings

1. Each State Party shall issue, prior to the importation of a good into its territory, a written Advance Ruling within a reasonable period of time to an Applicant that has submitted a written application. The application shall contain all necessary information for the State Party to issue the Advance Ruling.

2. The application referred to in paragraph 1 of this Article relates to the following:

(a) the good's tariff classification; and

(b) the origin of the good.

3. In addition, State Parties are encouraged to issue Advance Rulings on the following:

(a) application of criteria it uses to determine the customs value of the good in accordance with the Agreement on Implementation of Article VII of GATT 1994;

(b) application of duty drawback, deferral, or other schemes of relief that reduce, reimburse, or waive customs duties;

(c) the preferential treatment for which the good qualifies;

(d) country of origin labelling requirements, including placement and method of marking;

(e) whether the good is subject to a quota or tariff-rate quota; and

(f) such other matters as the State Party may decide.

4. Notwithstanding paragraph 1 of this Article, a State Party may decline to issue an Advance Ruling where the question or facts and circumstances raised are the subject of administrative or judicial review or where the application does not relate to any intended use of the Advance Ruling.

5. If a State Party declines to issue an Advance Ruling, it shall promptly notify the Applicant in writing, setting out the relevant facts and the basis for its decision.

6. The Advance Ruling shall be valid for at least six (6) months from the date of its issuance unless the law, facts, or circumstances supporting that ruling have changed.

7. Each State Party shall publish:

(a) the requirements for the application for an Advance Ruling, including the information to be provided and the format;

(b) the time period by which it will issue an Advance Ruling; and

(c) the length of time for which the Advance Ruling is valid.

8. Where a State Party revokes, modifies, or invalidates an Advance Ruling, it shall provide written notice to the Applicant, setting out the relevant facts and the basis for its decision. Where the State Party revokes, modifies, or invalidates an Advance Ruling with retroactive effect, it may only do so where the ruling was based on false or misleading information.

9. Each State Party shall provide, upon written request of an Applicant, an administrative review of the Advance Ruling or of the decision to revoke, modify, or invalidate it.

10. An Advance Ruling issued by a State Party shall be binding throughout its territory.

11. Each State Party shall endeavour to make its Advance Rulings publicly available on the internet, taking into account the need to protect commercially confidential information. A State Party may redact portions of an Advance Ruling for reasons of confidentiality in accordance with its laws, regulations and procedures.

Article 7 – Pre-arrival processing

1. Each State Party shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

2. Each State Party shall, where appropriate, provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.

Article 8 – Electronic payment

Each State Party shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees, and charges collected by Customs incurred upon importation and exportation.

Article 9 – Separation of release from final determination of customs duties, taxes, fees and charges

1. Each State Party shall adopt or maintain procedures allowing the release of goods prior to the final determination of customs duties, taxes, fees, and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

2. As a condition for such release, a State Party may require:

   (a) payment of customs duties, taxes, fees, and charges determined prior to or upon arrival of goods and a guarantee for any amount not yet determined in the form of a surety, a deposit or another appropriate instrument provided for in its laws and regulations; or

   (b) a guarantee in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations.

3. Such guarantee shall not be greater than the amount the State Party requires to ensure payment of customs duties, taxes, fees, and charges ultimately due for the goods covered by the guarantee.

4. In cases where an offence requiring imposition of monetary penalties or fines has been detected, a guarantee may be required for the penalties and fines that may be imposed.

5. The guarantee as set out in paragraphs 2 and 4 of this Article shall be discharged when it is no longer required.

6. Nothing in this Article shall affect the rights of a State Party to examine, detain, seize, confiscate or deal with the goods in any manner not otherwise inconsistent with the State Party's rights and obligations under the Agreement.

Article 10 – Risk management

1. Each State Party shall, to the extent possible, adopt or maintain a Risk management system for customs control.
2. Each State Party shall design and apply Risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.
3. Each State Party shall concentrate customs control and, to the extent possible other relevant border controls, on high-risk consignments and expedite the release of low-risk consignments. A State Party may select, on a random basis, consignments for such controls as part of its Risk management.
4. Each State Party shall base Risk management on an assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, *inter alia*, the Harmonised System code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

Article 11 – Post-clearance audit

1. With a view to expedite the release of goods, each State Party shall adopt or maintain post clearance audit to ensure compliance with Customs and other related laws and regulations.
2. Each State Party shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each State Party shall conduct post clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved, the State Party shall, without delay, notify the person whose record is audited, of the results, the person's rights and obligations, and the reasons for the results.
3. The information obtained in post-clearance audit may be used in further administrative or judicial proceedings.
4. State Parties shall, wherever practicable, use the result of post-clearance audit in applying Risk management.

Article 12 – Establishment and publication of average release times

1. State Parties are encouraged to measure and publish their average release time of goods periodically and in a consistent manner, using tools such as the Time Release Study of the World Customs Organization (referred to in this Annex as the "WCO").
2. Each State Party may determine the scope and methodology of such average release time measurement in accordance with its needs and capacity.
3. State Parties are encouraged to share with the Sub-Committee on Trade Facilitation, Customs Cooperation and Transit their experiences in measuring average release times, including methodologies used, bottlenecks identified, and any resulting effects on efficiency.

Article 13 – Trade Facilitation measures for Authorised Operators

1. Each State Party shall provide additional Trade Facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 4 of this Article, to operators who meet specified

criteria, hereinafter called Authorised Operators. Alternatively, a State Party may offer such Trade Facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.

2. The specified criteria to qualify as an Authorised Operator shall be related to compliance or the risk of non-compliance with requirements specified in a State Party's laws, regulations or procedures.

3. The criteria referred to in paragraph 2 of this Article shall be published and may include:

   (a) an appropriate record of compliance with customs and other related laws and regulations;

   (b) a system of managing records to allow for necessary internal controls;

   (c) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and

   (d) Supply chain security.

4. The criteria referred to in paragraph 3 of this Article shall not:

   (a) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and

   (b) to the extent possible, restrict the participation of small and medium-sized enterprises.

5. The Trade Facilitation measures provided pursuant to paragraph 1 of this Article shall include at least three (3) of the following measures[5]:

   (a) low documentary and data requirements, as appropriate;

   (b) low rate of physical inspections and examinations, as appropriate;

   (c) rapid release time, as appropriate;

   (d) deferred payment of duties, taxes, fees and charges;

   (e) use of comprehensive guarantees or reduced guarantees;

   (f) a single customs declaration for all imports or exports in a given period; and

   (g) clearance of goods at the premises of the Authorised Operator or another place authorised by Customs.

6. State Parties are encouraged to develop Authorised Operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.

7. In order to enhance the Trade Facilitation measures provided to operators, State Parties shall afford to other State Parties the opportunity of negotiating mutual recognition of Authorised Operator schemes.

8. State Parties shall exchange relevant information within the Sub-Committee on Trade Facilitation, Customs Cooperation and Transit about Authorised Operator schemes in force.

Article 14 – Expedited shipments

1. Each State Party shall adopt or maintain procedures allowing for the expedited release of at least those goods entered through air cargo facilities to persons who apply for such treatment, while maintaining customs control.[6] If a State Party employs criteria[7] limiting who may apply, the State Party may, in

5 A measure listed in paragraphs 3 of this Article from (a) to (g) will be deemed to be provided to authorized operators if it is generally available to all operators

6 In cases where a State Party has an existing procedure that provides the treatment in paragraph 2 in this Article, this provision does not require that State Party to introduce separate expedited release procedures.

published criteria, require that the Applicant shall, as conditions for qualifying for the application of the treatment described in paragraph 2 of this Article to its expedited shipments:

(a) provide adequate infrastructure and payment of customs expenses related to processing of expedited shipments in cases where the applicant fulfils the State Parties' requirements for such processing to be performed at a dedicated facility;

(b) submit in advance of the arrival of an expedited shipment the information necessary for the release;

(c) be assessed fees limited in amount to the approximate cost of services rendered in providing the treatment described in paragraph 2 of this Article;

(d) maintain a high degree of control over expedited shipments through the use of internal security, logistics, and tracking technology from pick-up to delivery;

(e) provide expedited shipment from pick-up to delivery;

(f) assume liability for payment of all customs duties, taxes, fees, and charges to the customs authority for the goods;

(g) have a good record of compliance with customs and other related laws and regulations; and

(h) comply with other conditions directly related to the effective enforcement of the State Parties' laws, regulations, and procedural requirements that specifically relate to providing the treatment described in paragraph 2 of this Article.

2. Subject to paragraphs 1 and 3 of this Article, State Parties shall:

(a) minimise the documentation required for the release of expedited shipments in accordance with paragraph 1 of Article 10 and, to the extent possible, provide for release based on a single submission of information on certain shipments;

(b) provide for expedited shipments to be released under normal circumstances as rapidly as possible after arrival, provided the information required for release has been submitted;

(c) endeavour to apply the treatment in subparagraphs (a) and (b) to shipments of any weight or value recognising that a State Party is permitted to require additional entry procedures, including declarations and supporting documentation and payment of duties and taxes, and to limit such treatment based on the type of goods, provided the treatment is not limited to low value goods; and

(d) provide, to the extent possible, for a de minimis shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods. Internal taxes, such as value added taxes and excise taxes, applied to imports consistently with Article III of the GATT 1994 are not subject to this provision.

3. Nothing in paragraphs 1 and 2 of this Article shall affect the rights of a State Party to examine, detain, seize, confiscate or refuse entry of goods, or to carry out postclearance audits, including the use of Risk management systems.

4. Further, nothing in paragraphs 1 and 2 of this Article shall prevent a State Party from requiring, as a condition for release, the submission of additional information and the fulfilment of non-automatic licensing requirements.

Article 15 – Perishable goods

1. Each State Party shall, with a view to preventing avoidable loss or deterioration of perishable goods, and provided that all regulatory requirements have been met, provide for the release of perishable goods:

(a) under normal circumstances within the shortest possible time; and

[7] Such application criteria, if any, shall be in addition to the State Party's requirements for operating with respect to all goods or shipments entered through air cargo facilities.

(b) in exceptional circumstances where it would be appropriate to do so, outside the business hours of customs and other relevant authorities.

2. Each State Party shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

3. Each State Party shall either arrange or allow an importer to arrange for the proper storage of perishable goods pending their release.

4. Each State Party may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities.

5. The movement of the goods to the storage facilities, including authorisations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities.

6. A State Party shall, where practicable and in accordance with domestic legislation, upon the request of an importer, provide for any procedures necessary for release to take place at those storage facilities.

Article 16 – Use of international standards

1. Each State Party shall endeavour to use international standards and elements for import, export and transit data maintenance and reporting that are consistent with international best practice.

2. Each State Party shall share, through the Secretariat, relevant information and best practices, on the implementation of international standards for import, export, or transit procedures as appropriate.

3. The State Parties shall, as appropriate, discuss specific standards for import, export, or transit procedures whether and/or how they contribute to Trade Facilitation.

Article 17 – Use of information technology

1. Each State Party shall, to the extent practicable, use the most modern information and communications technology to expedite procedures for the release of goods, including those in transit.

2. In the fulfilment of the obligations referred to in paragraph 1 of this Article, each State Party shall endeavour to:

(a) make available by electronic means any declaration or other form that is required for the import, export or transit of goods;

(b) allow documentation for import, export, or transit to be submitted electronically;

(c) establish an electronic system for data exchange relating to trade information which is accessible and continuously promote data exchange by the importers, exporters and persons engaged in transit of goods; and

(d) collaborate with other State Parties for the implementation of mutually compatible electronic systems that enable the intergovernmental exchange of trade data amongst the State Parties.

Article 18 – Single Window

1. State Parties shall endeavour to establish and maintain a Single Window, enabling traders to submit documentation and/or data requirements for importation, exportation, or Transit of goods through a single entry point to the participating national authorities. After the examination by the national authorities of the documentation and/or data, the results shall be notified to the applicants through the Single Window in a timely manner.

2. In cases where documentation and/or data requirements have already been fulfilled through the Single Window, the same documentation and/or data requirements shall not be required by national authorities except in urgent circumstances and other limited exceptions which are made public.
3. State Parties shall notify the Secretariat of the details of operation of the Single Window.
4. State Parties shall, to the extent practicable, use information technology to support the single window.

Article 19 – Freedom of transit

Each State Party shall ensure the freedom of transit through its territories in accordance with Article V of GATT 1994 and Article 11 of the WTO Agreement on Trade Facilitation.

Article 20 – Documentation

1. Each State Party shall apply uniform import, export, and Transit procedures and uniform documentation requirements for the release of goods throughout its territory.
2. Nothing in this Article shall prevent a State Party from differentiating its import, export, and Transit procedures and documentation requirements based on:
   (a) the nature and type of goods, or their means of transport; and
   (b) risk management.
3. Each State Party shall periodically review, and based on the results of the review, ensure, as appropriate, that import, export, and transit procedures and documentation requirements are:
   (a) adopted and applied with a view to prompt release of goods;
   (b) adopted and applied in a manner that reduces the time and cost of compliance with such procedures;
   (c) the least trade-restrictive measure available to the State Party, taking into account its financial capabilities, in order to achieve its policy objectives; and
   (d) removed forthwith if no longer required to fulfil the State Party's policy objectives in question.
4. Each State Party shall, to the extent possible, accept paper or electronic copies of documents required for importation, exportation or transit of goods through its territory.

Article 21 – Fees, charges and penalties

1. Each State Party shall ensure, in accordance with Articles II, V and VIII of the GATT, that all fees and charges of whatever character other than customs duties imposed on or in connection with importation, exportation or Transit shall be limited in amount to the approximate cost of services rendered, which shall not be calculated on an *ad valorem* basis, and shall not represent an indirect protection to domestic goods or a taxation of imports, exports or goods in transit for fiscal purposes.
2. Each State Party shall publish a list of fees and charges referred to in paragraph 1 of this Article as well as any amendments thereto. Such fees and charges shall not be applied until information on them has been published.
3. Each State Party shall periodically review its fees and charges with a view to reducing their number and diversity, where practicable.
4. Each State Party shall ensure that the penalty for the breach of a Customs Law, regulation, or procedural requirement is imposed only on the person or persons responsible for the breach under its laws.

5. The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.
6. Each State Party shall ensure that it maintains measures to avoid:
   (a) conflicts of interest in the assessment and collection of penalties and duties; and
   (b) creating an incentive for the assessment or collection of a penalty that is inconsistent with paragraph 5 of this Article.
7. Each State Party shall ensure that when a penalty is imposed for a breach of Customs Laws, regulations, or procedural requirements, an explanation in writing is provided to the person or persons upon whom the penalty is imposed specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.
8. When a person voluntarily discloses to a State Party's Customs Authority the circumstances of a breach of a Customs Law, regulation, or procedural requirement prior to the discovery of the breach by the Customs Authority, the State Party is encouraged to, where appropriate, consider this fact as a potential mitigating factor when establishing a penalty for that person.
9. The provisions of this Article shall apply to the penalties on traffic in Transit.
10. For purposes of this Article, the term "penalties" shall mean those imposed by a State Party's Customs Authority for a breach of the State Party's Customs Laws, regulations, or procedural requirements.

Article 22 – Review and appeal

1. Each State Party shall provide that any person to whom Customs Authorities issue an administrative decision has the right, within its territory, to:
   (a) an administrative appeal to, or review by, an administrative authority higher than or independent of the official or office that issued the decision; and/or
   (b) a judicial appeal or review of the decision.
2. Each State Party shall ensure that an authority conducting a review under paragraph 1 of this Article promptly notifies the person affected of its decision and the reasons thereof in writing.
3. Where a person receives a decision on administrative or judicial review as provided for under paragraph 1 of this Article, that decision shall be applicable in the same manner throughout the territory of the State Party with respect to the same goods.

Article 23 – Use of customs brokers

1. Without prejudice to the important policy concerns of some State Parties that currently maintain a special role for customs brokers, from the entry into force of this Agreement, State Parties shall not introduce the mandatory use of customs brokers.
2. Each State Party shall notify the Secretariat and publish its measures on the use of customs brokers. Any subsequent modifications thereof shall be notified and published promptly.
3. With regard to the licensing of customs brokers, State Parties shall apply rules that are transparent and objective.

Article 24 – Pre-shipment inspection

Each State Party shall not require the use of pre-shipment inspection entities in relation to tariff classification or customs valuation.

Article 25 – Border agency cooperation

1. Each State Party shall ensure that its authorities and agencies responsible for border control and procedures dealing with the importation, exportation and Transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.
2. State Parties shall, to the extent possible and practicable, cooperate on mutually agreed terms with other State Parties with whom they share a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include:
   (a) alignment of working days and hours;
   (b) alignment of procedures and formalities;
   (c) development and sharing of common facilities;
   (d) joint controls; and
   (e) establishment of one stop border post control.

Article 26 – Other measures to facilitate trade

1. State Parties recognise the importance of cooperation in order to expedite the movement of goods and reduce the cost of doing business and the volume of paper work in respect of trade within the AfCFTA.
2. The Secretariat shall keep State Parties informed regarding trade facilitation activities, instruments, recommendations and guidelines of other international organisations, particularly of:
   a) The UN Economic Commission for Africa (UNECA);
   b) The United Nations Conference on Trade and Development (UNCTAD);
   c) The World Customs Organisation (WCO);
   d) The International Maritime Organisation (IMO);
   e) The International Civil Aviation Organisation (ICAO);
   f) The International Standards Organisation (ISO);
   g) The International Chamber of Commerce (ICC) and the International Bureau of Chamber of Commerce (IBCC);
   h) The International Air Transport Association (IATA);
   i) The International Chamber of Shipping (ICS); and
   j) The World Trade Organisation (WTO).

Article 27 – Sub-Committee on Trade Facilitation, Customs Cooperation and Transit

1. The Committee on Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Trade Facilitation, Customs Cooperation and Transit.
2. The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under this Annex or by the Committee on Trade in Goods.

Article 28 – National Committee on Trade Facilitation

Each State Party shall establish and/or maintain a National Committee on Trade Facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of the provisions of this Annex.

Article 29 – Implementation

1. State Parties shall expedite the implementation of this Annex.
2. The extent and the timing of implementation of the provisions of this Annex shall be related to the implementation capacities of State Parties, the Sub-Committee for Trade Facilitation, Customs Cooperation and Transit or as notified under the WTO Agreement on Trade Facilitation.

Article 30 – Dispute settlement

Any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of this Annex shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

Article 31 – Review and amendment

This Annex shall be subject to review and amendments in accordance with Articles 28 and 29 of the Agreement.

Annex 5

Non-Tariff Barriers

Article 1 – Definitions

For purposes of this Annex, the following definitions shall apply:

(a) "**Facilitator**" means an independent expert or person agreed upon by Interested Parties in accordance with paragraph 2.2 of Appendix 2 of this Annex;

(b) "**Interested Party**" means a Party that is directly affected by the Non-Tariff Barriers (hereinafter referred to as NTBs) under discussion;

(c) "**National Focal Point**" means Ministry, government department or any other authorised body as designated pursuant to Article 5 of this Annex;

(d) "**National Monitoring Committee**" means committee of relevant stakeholders from private and public sectors as established under Article 5 of this Annex;

(e) "**NTB Coordination Unit**" means a unit created in the Secretariat to coordinate the elimination of NTBs pursuant to Article 5 of this Annex;

(f) "**Perishable Goods**" means goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage condition; and

(g) "**Time Bound Elimination Matrix**" means the Non-Tariff Barriers elimination plan for the removal of identified NTBs that is based on the NTBs level of impact on intra-regional trade.

Article 2 – Objective and scope

1. The objective of this Annex is to implement the provisions of the Protocol on Trade in Goods concerning the elimination of NTBs.
2. Without prejudice to the rights and obligations under the World Trade Organization (WTO) Agreements, this Annex provides a mechanism for the identification, categorization and progressive elimination of NTBs within the AfCFTA.
3. This annex provides for the following:
   (a) institutional structures for the elimination of NTBs;
   (b) general categorisation of NTBs in the AfCFTA;
   (c) reporting and monitoring tools; and
   (d) facilitation of resolution of identified NTBs.

Article 3 – General categorisation

1. State Parties may, for guiding purposes, adopt *inter alia* the general categorisation of potential NTBs as indicated below:
   (a) government participation in trade and restrictive practices tolerated by Governments;
   (b) customs and administrative entry procedures;
   (c) technical Barriers to Trade;
   (d) sanitary and Phytosanitary Measures;
   (e) specific limitations; and
   (f) charges on imports.
2. The general categorisation in paragraph 1 of this Article does not determine the legitimacy, adequacy, necessity or discrimination of any form of policy intervention used in international trade and it does not prejudice the rights and obligations of State Parties under the WTO Agreements.
3. In order to ensure that this general categorisation, sub-categories and subclassifications evolve and adapt to the changing reality of international trade and data collection needs, the State Parties, through the Secretariat, may propose changes for consideration and concurrence by other State Parties in accordance with Article 17 of this Annex.
4. The descriptions of these categories and sub-categories form Appendix 1 of this Annex.

Article 4 – Sub-Committee on Non-Tariff Barriers

1. The Committee on Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Non-Tariff Barriers.
2. The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under this Annex or by the Committee on Trade in Goods

Article 5 – Functions of the NTB Sub-Committee

The main functions of the NTB Sub-Committee shall be:

(a) the development of working procedures for the implementation of this Annex;

(b) monitoring the implementation of this Annex with a view to facilitating periodic review of the Annex and the NTBs mechanism to enhance the elimination of NTBs in the AfCFTA; and

(c) any other NTB -related activities.

Article 6 – Establishment of NTB Coordination Unit, National Monitoring Committees and the National Focal Points

1. The Secretariat in liaison with the NTB Sub-Committee shall establish a Unit fo the coordination of NTBs elimination;
2. The State Parties shall:
    (a) Establish National Monitoring Committees and National Focal Points on NTBs;
    (b) Provide names and addresses of designated National Focal Points to the Secretariat for circulation to States Parties; and
    (c) The National Monitoring Committees and the National Focal Points together form part of the Institutional Structures at the National level for the Elimination of NTBs.

Article 7 – Functions of the NTB Coordination Unit

The main function of the NTB Coordination Unit, will be to coordinate the elimination of NTBs working together with the NTB Sub-Committee, National Focal Points and Regional Economic Communities (RECs) NTB Units and any other forum working in the same area.

Article 8 – National Monitoring Committees (NMCs)

1. Each State Party shall establish a National Monitoring Committee
2. The functions of the National Monitoring Committees shall include:
    (a) identifying, resolving and monitoring NTBs;
    (b) defining the process of elimination;
    (c) confirming deadlines for action;
    (d) agreeing on recourse due to non-action;
    (e) defining the mandate and responsibilities of NTB institutional structures, and
    (f) providing clear guidelines to the business community for the resolution of identified NTBs ; and
    (g) any other related activities.
3. The National Monitoring Committee shall comprise of relevant stakeholders representing the private and public sectors.
4. Where a reported measure has been identified as an NTB, but has not been resolved, the NMC shall proceed to include it in the Time Bound Elimination Matrix for further action or resolution as provided for under Article 13 of this Annex.

Article 9 – Functions of the National Focal Points

The functions of the National Focal Points on NTBs shall include:

(a) coordinating the implementation of the AfCFTA mechanism for the elimination of NTBs;

(b) providing secretariat services to the National Monitoring Committees (NMC);

(c) facilitating the removal of NTBs and reporting on their elimination;

(d) tracking and monitoring NTBs through utilization of the reporting tools;

(e) providing clear guidelines to the business community on the areas identified as NTBs;

(f) sensitizing stakeholders on the monitoring and evaluation mechanism and NTBs reporting tools;

(g) submitting reports to the Secretariat, on identified and/or resolved NTBs, for record purposes;

(h) providing assistance to the Facilitator in the process of resolving NTBs as necessary; and

(i) any other related activities.

Article 10 – RECs NTB monitoring mechanisms

1. The RECs shall establish or strengthen NTBs monitoring mechanisms responsible for:

   (a) tracking and monitoring NTBs affecting intra-African trade and updating regional and national plans for the elimination of NTBs; and

   (b) capacity building and sensitisation of stakeholders on the reporting, monitoring and evaluation tools such as the web based system.

2. Working closely with the NTB Sub-Committee, RECs NTB Units and National Focal Points shall ensure timely and effective resolution of identified NTBs. RECs shall cooperate in resolving identified NTBs with a view to facilitating trade.

3. RECs NTB Monitoring mechanisms shall support the NTB Coordination Unit at the Secretariat in the resolution of inter-REC NTBs.

Article 11 – Procedure for elimination and co-operation in the elimination of Non-Tariff Barriers

In the elimination of NTBs, State Parties shall apply the procedures set out in Appendix 2 of this Annex.

Article 12 – Mechanism for identifying, reporting, resolving, monitoring and elimination of Non-Tariff Barriers

1. The mechanism for identifying, reporting and monitoring NTBs will be put in place to facilitate the elimination of NTBs within the AfCFTA.

2. Any State Party or Economic Operator may register a complaint or trade concern through the mechanism provided for in Appendix 2 of this Annex.

3. State Parties are encouraged to resolve NTBs raised at intra-REC level using the resolution mechanisms in place in each REC.

4. The mechanism will address NTBs that have not been resolved at REC level, are inter-REC in nature, or are arising from State Parties that are not members of any REC.

5. The NTBs mechanism shall enhance transparency and provide for easy follow-up on progress in the resolution of reported and identified NTBs
6. The reporting and monitoring tools for NTBs shall consist of a prescribed format, forms, online or any other information, communication and technology tools which will be subject to periodic review and shall be available on websites as designated by the NTBs Sub Committee.
7. The mechanism shall be accessible to State Parties' Economic Operators, National Focal Points, REC Secretariats, academic researchers and other Interested Parties.

Article 13 – Non-Tariff Barriers Elimination Matrices

Each State Party shall prepare a Time Bound Elimination Matrix, based on the agreed categorisation of NTBs and their level of impact on intra-Africa trade.

Article 14 – Transparency and exchange of information

The NTB Coordination Unit shall circulate to the State Parties on a quarterly basis, a status report of notified requests and responses and of ongoing and recently resolved NTBs, together with reports from Facilitators.

Article 15 – Technical assistance

State Parties may request for technical assistance from the Secretariat or where necessary the Secretariats of the RECs to promote their understanding of the use and functioning of procedures set out in Appendix 2 of this Annex, and the resolution of an NTB.

Article 16 – Dispute settlement

Any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of this Annex shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

Article 17 – Review and amendment

This Annex shall be subject to review and amendments in accordance with Articles 28 and 29 of the Agreement.

Appendix 1

General categorization of potential sources of Non-Tariff Barriers

Parts and sections	Description
Part I	Government Participation in Trade and Restrictive Practices Tolerated by Governments • Government aids, including subsidies and tax benefits • Restrictive practices tolerated by governments • Other
Part II	Customs and Administrative Entry Procedures • Customs valuation • Customs classification • Consular formalities and documentation • Samples • Rules of origin • Customs formalities • Import licensing • Pre-shipment inspection and other formalities related to preshipment inspection. • Other
Part III	Technical Barriers to Trade • Technical regulations, and standards including packaging, labelling and marking requirements • Conformity assessments • Certificate of Free Sale • Other
Part IV	Sanitary and Phytosanitary Measures • SPS measures including chemical residue limits, disease freedom, specified product treatment, etc. • Conformity assessments • Other
Part V	Specific Limitations • Embargoes and other restrictions of similar effect • Quantitative imports and export restrictions or prohibitions

1. State Parties shall, in line with Article 10 above, exhaust existing NTB elimination channels at REC level before escalating a complaint or trade concern to the AfCFTA level.

2. Where State Parties fail to reach agreement on the resolution of a complaint using REC based NTB mechanism, or the complaint has arisen from inter-REC trade, the State Parties shall proceed as follows:

2.1 **Stage I: Request and response on a specific NTB**

2.1.1 Any State Party (the 'requesting State Party') may, individually or jointly with other States Parties, initiate Stage I by submitting in writing or through an agreed online information and communication technology method or any other method, in accordance with Article 12.6; to another State Party (the 'responding State Party') and the Secretariat a request for information regarding a NTB as identified and reported by the requesting State Party;

2.1.2 The request shall identify and describe the specific NTB as identified and reported by the requesting State Party and provide a detailed description of its concerns regarding the NTB's impact on trade;

2.1.3 The responding State Party shall acknowledge and provide to the requesting State Party, within twenty (20) days following receipt of the request, a written response containing all the information and clarification requested. Where the responding State Party considers that a response within this period is not practicable, it shall inform the requesting State Party of the reasons for the delay, together with an estimate of the period within which it will provide its response. In all cases it shall not exceed thirty (30) days from the date of receiving the request for information unless the parties mutually agree to extend the days;

2.1.4 The responding State Party shall notify its response directly to the requesting State Party and the Secretariat for recording purposes;

2.1.5 The Secretariat shall undertake to ensure that the responding and the requesting State Parties adhere to the provisions indicated in 2.1.1 to 2.1.4 in Stage I above;

2.1.6 Where the response is acceptable to the requesting State Party, the requesting State Party shall notify the responding State Party and the Secretariat, and the complaint shall be considered resolved. Where the parties mutually agree on a complaint as being an NTB, the National Monitoring Committee of the responding State Party shall develop an elimination plan as provided for under Article 13 of this Annex;

2.1.7 Where the response does not resolve the complaint, the requesting State Party shall notify the responding State Party and the Secretariat. The Secretariat shall convene a meeting with the parties within twenty (20) days from the date of receiving the notification to, *inter alia*, address the outstanding complaint;

2.1.8 In case the matter is not satisfactorily resolved in Stage I, both parties shall by mutual consent and through a written and signed agreement proceed to Stage II;

2.1.9 Any other State Party may submit a written request to the Secretariat to participate in these procedures as an interested party within ten (10) days from the date of circulation of the decision to proceed to Stage II;

2.1.10 Pending final resolution of the NTB, the parties may consider possible interim solutions, especially if the NTB relates to perishable goods;

2.1.11 In case of perishable goods, the issue shall be dealt with within ten (10) days;

2.1.12 Once initiated, Stage I shall be terminated upon request of either party; and

2.1.13 Stage I proceedings shall not exceed a total of sixty (60) days unless otherwise mutually agreed by the parties.

2.2 **Stage II: Use of a Facilitator to resolve complaints**

2.2.1 **Appointment of a Facilitator**

a) Upon initiation of Stage II of these procedures, the Secretariat shall coordinate the appointment of an independent expert/person acceptable to the parties to serve as Facilitator;

b) Facilitators shall be drawn from a pool of experts whose selection and appointment shall be in accordance with agreed criteria and procedures to be developed by the NTBs Sub-Committee;

c) The parties shall jointly agree on the terms of reference for Facilitator; and

d) Upon initiation of this Stage II, the parties shall agree upon the Facilitator within ten (10) days.

2.2.2 **Seeking mutually agreed solutions**

a) Either party shall present to the Facilitator and the other party any information that it deems relevant.

b) The Facilitator, in consultation with the parties, shall have full flexibility in organizing and conducting the deliberations under these procedures which normally should take place at the Secretariat Headquarters, unless the parties agree on any other place of mutual convenience, taking into account possible capacity constraints;

c) In assisting the parties, in an impartial and transparent manner with a view to bringing clarity on the NTB concerned and its possible trade-related impact, the Facilitator may:

i. with the support of the NTB Sub Committee, call upon the Secretariat or any other relevant resource to provide the Facilitator with any requested information;

ii. meet individually or jointly with, the parties, in order to facilitate discussions on the NTB and to assist in reaching mutually agreed solutions;

iii. seek assistance where necessary, of relevant experts and stakeholders, after consulting with the parties;

iv. provide any additional support requested by the parties; and

v. offer advice and propose possible solutions (technical opinion) for the parties provided any such opinion shall not pertain to any possible legitimate objectives for the maintenance of the measure.

d) The parties shall engage each other with a view to reaching a mutually agreed solution within forty-five (45) days from the commencement of the proceedings in Stage II.

2.2.3 **Outcome and implementation**

a) Upon termination of Stage II of these procedures by a party, or in the event that the parties reach a mutually agreed solution, the Facilitator shall, within ten (10) days, issue to the parties in writing, a draft factual report providing a brief summary of the following:

i) the NTB at issue in these procedures;

ii) the procedures followed;

iii) any mutually agreed solution as the final outcome of these procedures, including possible interim solutions; and

iv) any areas of disagreement shall be recorded by the parties.

b) The Facilitator shall provide the parties ten (10) days within which to comment on the draft report. After considering the comments of the parties, the Facilitator shall submit, in writing, a final factual report to both parties and the Secretariat within ten (10) days of receiving the comments.

c) If the parties reach a mutually agreed solution, such solution shall be implemented and also circulated to all State Parties through the Secretariat. Such solution shall be implemented in accordance with an elimination plan as provided for under Article 13 of this Annex;

d) Where a State Party fails to resolve an NTB after a factual report has been issued and a mutually agreed solution has been reached, the requesting State Party may resort to the dispute settlement stage;

e) Notwithstanding the provisions herein parties may agree to submit the matter to arbitration in accordance with the provisions of the Protocol on the Rules and Procedures on the Settlement of Disputes.

2.2.4 **Confidentiality**

a) All meetings and information whether provided in oral or written form acquired pursuant to Stages I and II of the procedures set out in this Appendix shall be confidential and without prejudice to the rights of any party or other State Party in any dispute settlement proceeding under the Dispute Settlement procedures. The obligation of confidentiality does not extend to factual information already existing in the public domain;

b) Nothing in this Appendix shall require State Parties to disclose confidential information, which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private; and

c) Any third party admitted to the procedures shall be bound by the confidentiality requirements pursuant to these procedures.

Annex 6

Technical Barriers to Trade

Article 1 – Definitions

1. Except where this Annex gives a specific meaning to a term, the general terms for standardisation, technical regulations, conformity assessment procedures and related activities shall have the meaning given to them by the definitions adopted within the WTO Agreement on Technical Barriers to Trade and by other international bodies dealing with Technical Barriers to Trade (TBT) issues.
2. For purposes of this Annex, the abbreviations set out below shall have the following meaning:
   (a) "**AFRAC**" means the African Accreditation Cooperation;
   (b) "**AFRIMETS**" means the Intra-Africa Metrology System;
   (c) "**AFSEC**" means the African Electro-technical Standardization Commission;
   (d) "**ARSO**" means the African Organization for Standardization;
   (e) "**BIPM**" means the International Bureau of Weights and Measures;

(f) "**CGPM**" means the General Conference on Weights and Measures;

(g) "**IAF**" means the International Accreditation Forum;

(h) "**IEC**" means the International Electro-technical Commission;

(i) "**ILAC**" means the International Laboratory Accreditation Cooperation;

(j) "**ISO**" means the International Organization for Standardization;

(k) "**OIML**" means the International Organization for Legal Metrology;

(l) "**PAQI**" means the Pan-African Quality Infrastructure;

(m) "**SI**" means the International System of Units; and

(n) "**TBT Agreement**" means the World Trade Organization Agreement on Technical Barriers to Trade[8] .

Article 2 – Purpose and scope

1. The purpose of this Annex is to implement the provisions of the Protocol on Trade in Goods concerning Technical Barriers to Trade.
2. This Annex shall apply to standards, technical regulations, conformity assessment procedures, accreditation, and metrology in the State Parties.
3. References in this Annex to standards, technical regulations and conformity assessment procedures include amendments thereto, and additions to the rules or the product coverage thereof.

Article 3 – Guiding principles

1. State Parties agree that the WTO TBT Agreement shall form the basis of this Annex.
2. State Parties reaffirm their rights and obligations under the WTO TBT Agreement in respect of the preparation, adoption, and application of standards, technical regulations, conformity assessment procedures and related activities.

Article 4 – Objectives

The objectives of this Annex are to:

(a) facilitate trade through cooperation in the areas of standards, technical regulation, conformity assessment, accreditation and metrology;

(b) facilitate trade by the elimination of unnecessary and unjustifiable technical barriers to trade through:

(i) reinforcing international best practices in regulation and standards setting;

(ii) promoting the use of relevant international standards as a basis for technical regulations; and

(iii) identifying and assessing instruments for trade facilitation such as harmonization of standards, equivalence of technical regulations, metrology, accreditation and conformity assessment.

(c) strengthen cooperation and identify priority areas;

(d) develop and implement capacity building programmes to support the implementation of this Annex;

[8] It shall include the decisions and recommendations adopted by the WTO Committee on Technical Barriers to Trade since 1 January 1995

(e) establish mechanisms and structures to enhance transparency in the development and implementation of standards, technical regulations, metrology, accreditation and conformity assessment procedures; and

(f) promote mutual recognition of results of conformity assessment.

Article 5 – Fields of cooperation

State Parties shall cooperate in the development and implementation of standards, technical regulations, conformity assessment procedures, accreditation, metrology, capacity building and enforcement activities in order to facilitate trade within the AfCFTA.

Article 6 – Cooperation in standardisation

1. State Parties shall promote cooperation between their respective standardisation bodies with a view to facilitate trade.
2. State Parties shall:
    (a) develop and promote the adoption and/or adaption of international standards;
    (b) promote the adoption of standards developed by the ARSO and the AFSEC;
    (c) where a relevant international standard required to facilitate trade does not exist, request the ARSO and/or the AFSEC to develop the required standard to facilitate trade between State Parties;
    (d) designate liaison focal points to ensure that all State Parties are well informed of the standards developed or to be developed by the ARSO and the AFSEC;
    (e) apply harmonized rules and procedures for the development and publication of national standards in accordance with international requirements and best practices; and
    (f) promote membership, liaison and participation in the work of ISO, IEC, ARSO, AFSEC and similar international and regional standardisation organisations.

Article 7 – Cooperation in technical regulations

In the development and implementation of technical regulations, State Parties shall promote:

(a) compliance with the WTO TBT Agreement;

(b) the use of international standards and/or parts thereof as a basis for technical regulations; and

(c) the application of Good Regulatory Practices.

Article 8 – Cooperation in conformity assessment

State Parties shall:

(a) promote compliance with the WTO TBT Agreement;

(b) make use of relevant international standards and conformity assessment procedures;

(c) facilitate the development of conformity assessment capacity and technical competence that can support trade;

(d) promote the use of accredited conformity assessment bodies as a tool to facilitate trade amongst the State Parties;

(e) promote mutual acceptance of conformity assessment results of conformity assessment bodies which have been recognised under appropriate multilateral agreements between their respective accreditation bodies and the relevant mutual recognition arrangements of the AFRAC, ILAC and IAF; and

(f) enhance confidence in the continued reliability of each other's conformity assessment results through, among others, peer reviews where appropriate.

Article 9 – Cooperation in accreditation

State Parties shall:

(a) promote utilisation of existing accreditation structures for cooperation in the AfCFTA;

(b) encourage and support African accreditation bodies operating in Africa to achieve international recognition;

(c) provide for and enable recognition and support of national, regional and multieconomy accreditation bodies operating within the State Parties that provide accreditation services to those State Parties that do not have national accreditation bodies;

(d) provide for a national accreditation focal point for accreditation services if a State Party does not have a national accreditation body;

(e) cooperate in the area of accreditation by participating in the work of the AFRAC;

(f) promote participation in the AFRAC mutual recognition arrangements;

(g) promote and facilitate the use of accredited conformity assessment bodies as a tool to facilitate trade within the AfCFTA; and

(h) coordinate inputs for liaison with the AFRAC, ILAC and the IAF.

Article 10 – Cooperation in metrology

1. State Parties shall:

    (a) adopt and implement the SI as the basis for a harmonised system for legal, industrial and scientific metrology activities;

    (b) cooperate in all areas of metrology by participating in the work of the AFRIMETS;

    (c) facilitate movement and proper handling of metrology artefacts, test samples, test equipment and reference materials sent for calibration, testing or inter-laboratory comparisons within and outside Africa; and

    (d) promote coordination of the use of existing metrology facilities with a view to making them accessible to one another.

2. In legal metrology, State Parties shall:

    (a) promote the establishment of national legal metrology systems and adoption of OIML recommendations;

    (b) formulate modalities for the mutual recognition of inspection and test certificates and approvals relating to legal metrology issued by national legal metrology departments or institutions;

    (c) endeavour to obtain full or corresponding membership to the OIML;

    (d) liaise with OIML and other regional organizations on matters concerning legal metrology; and

    (e) cooperate in the area of legal metrology by participating in the work of the AFRIMETS.

3. In scientific and industrial metrology, State Parties shall:

   (a) provide for national measurement standards that are traceable to the SI and with a level of measurement uncertainty that is commensurate with the needs of the State Parties;

   (b) contribute to the formulation of and participation in the African and RECs Metrology organisations programmes to maintain the continued competence of national measurement standards of State Parties; and

   (c) promote membership of the BIPM and associate membership of the CGPM.

Article 11 – Transparency

In order to enhance transparency:

(a) State Parties reaffirm that transparency is essential in ensuring clarity, predictability and trust within the AfCFTA framework and shall comply with the transparency obligations of the WTO TBT Agreement including notification procedures and notification systems developed from time to time;

(b) State Parties shall submit notifications to the Secretariat;

(c) The Secretariat shall publish and timeously circulate notifications made by a State Party to all other State Parties. The Secretariat shall subscribe to the WTO electronic circulation of TBT notifications, or the SPS and TBT E-PING alert notification system, or make use of the WTO TBT information management system, and/or any other electronic notification system to receive or download WTO TBT notifications submitted to the WTO by State Parties;

(d) State Parties shall use the existing WTO TBT national notification authorities or, where they do not exist, designate central government authorities for fulfilling the notification obligations established under the relevant articles of the WTO TBT Agreement and the Agreement;

(e) National notification authorities shall be notified to the Secretariat;

(f) The Secretariat shall timeously circulate to the WTO TBT enquiry points of State Parties the notifications submitted to the WTO by the State Parties;

(g) Non WTO Member States shall inform the Secretariat of their draft technical regulations and conformity assessment procedures which shall be circulated to State Parties, to enable them to provide comments, if any, and submitthem to the Secretariat before their adoption and entry into force; and

(h) State Parties which have not established TBT enquiry points shall appoint a Government authority to provide a TBT transparency function.

Article 12 – Technical assistance and capacity building

1. State Parties shall cooperate in seeking and providing technical assistance and capacity building to address standards, technical regulation, conformity assessment, accreditation, metrology and issues of mutual interest.

2. The Secretariat shall, in collaboration with States Parties develop mechanisms for cooperation in technical assistance and capacity building to address standards, technical regulations, conformity assessment, accreditation and metrology.

3. The Secretariat shall in collaboration with State Parties, implement a joint work programme to enhance capacities for the effective implementation of obligations under this Annex.

Article 13 – Establishment and functions of the Sub-Committee for Technical Barriers to Trade

1. The Committee on Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Technical Barriers to Trade.
2. The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under this Annex or by the Committee on Trade in Goods.
3. The functions of the TBT Sub-Committee shall include to:
    (a) cooperate and consult on standards, technical regulations, metrology, accreditation and conformity assessment matters of interest to the State Parties;
    (b) develop procedures for the implementation of provisions of this Annex;
    (c) identify areas for collaboration in relevant infrastructure that supports standards, technical regulations, metrology, accreditation and conformity assessment;
    (d) promote cooperation between State Parties in the implementation of this Annex;
    (e) identify, develop and implement capacity building programmes to address agreed areas;
    (f) promote cooperation in the utilisation of existing human, scientific and technical resources, and the exchange of expertise in standards, technical regulations, metrology, accreditation and conformity assessment in areas of mutual interest;
    (g) coordinate, where appropriate, the adoption of common positions among State Parties to the WTO TBT Committee and other relevant international organisations;
    (h) expeditiously address any issue that a State Party raises related to the development, adoption or application of standards, technical regulations or conformity assessment procedures;
    (i) report to the Committee on Trade in Goods on the implementation of this Annex, as appropriate;
    (j) track amendments (if any) made to the WTO TBT Agreement, and, if necessary, develop proposals to amend this Annex in accordance with Article 29 of the Agreement in order for it to remain aligned to the WTO TBT Agreement;
    (k) receive and share information on the activities of the PAQI institutions with all State Parties;
    (l) collaborate with other Sub-Committees with a view to facilitating intra-Africa trade; and
    (m) perform any other TBT related tasks as may be assigned by the Committee on Trade in Goods.

Article 14 – Dispute settlement

Any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of this Annex shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

Article 15 – Review and amendment

This Annex shall be subject to review and amendments in accordance with Articles 28 and 29 of the Agreement.

Annex 7

Sanitary and Phytosanitary Measures

Article 1 – Definitions

1. The definitions set out in the following instruments shall apply to this Annex:
   (a) the Agreement;
   (b) Annex A of the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures; and
   (c) international standards.
2. For purposes of this Annex, the abbreviations set out below shall have the following meaning:
   (a) "**CAC**" means Codex Alimentarius Commission;
   (b) "**IPPC**" means the International Plant Protection Convention; and
   (c) "**OIE**" means the World Organization for Animal Health.

Article 2 – Purpose and scope

1. The purpose of this Annex is to implement the provisions of the Protocol on Trade in Goods concerning Sanitary and Phytosanitary measures (hereinafter referred to as the "SPS" measures).
2. This Annex shall apply to SPS measures that directly or indirectly affect trade between the State Parties.

Article 3 – Guiding principle

In the preparation, adoption, and application of SPS measures, State Parties shall be guided by the provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures.

Article 4 – Objectives

The objectives of this Annex are to:

(a) facilitate trade while safeguarding human, animal or plant life or health in the territory of State Parties;

(b) enhance cooperation and transparency in the development and implementation of SPS measures to ensure that they do not become unjustifiable barriers to trade; and

(c) enhance technical capacity of State Parties for the implementation and monitoring of SPS measures while encouraging the use of international standards in the elimination of barriers to trade.

Article 5 – Assessment of risk to determine appropriate level of sanitary or phytosanitary protection

1. State Parties shall, in responding to market access requests, ensure that their sanitary or phytosanitary measures are based on an assessment, as appropriate, of the circumstances of the risks to human, animal or plant life or health taking into account risk assessment techniques developed by the relevant international organisations.

2. State Parties shall, in assessing risk and determining the sanitary or phytosanitary measures to be applied to achieve the appropriate level of protection, take into account available scientific evidence, relevant processes and production methods, relevant inspection, sampling and testing methods, prevalence of specific diseases or pests, existence of disease or pest free areas, relevant ecological and environmental conditions and quarantine, or other treatments.

3. In assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary or phytosanitary protection from such risks, the State Parties shall take into account as relevant economic factors; the potential damage in terms of loss of production or sales in the event of entry, establishment or spread of a pest or disease; the costs of control or eradication in the territory of the importing State Party; and the relative cost effectiveness of alternative approaches to limiting risks.

4. In cases where relevant scientific evidence is insufficient, a State Party may provisionally adopt sanitary or phytosanitary measures on the basis of available pertinent information including that from relevant international organisations as well as from sanitary or phytosanitary measures applied by other State Parties. In such circumstances, the State Parties shall seek to obtain the additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure accordingly, within reasonable time frames agreed by the concerned State Parties.

5. When a State Party has reason to believe that a specific sanitary or phytosanitary measure introduced or maintained by other State Parties is constraining, or has the potential to constrain its exports, and the measure is not based on the relevant international standards, guidelines or recommendations, or such standards, guidelines or recommendations do not exist, an explanation of the reasons for such sanitary or phytosanitary measure may be requested and shall be provided by the State Party maintaining the measure and if the aggrieved State Party is not satisfied, request for the review of the measure in accordance with the provisions of this Annex.

Article 6 – Adaptation to regional conditions, including pest- or disease-free areas and areas of low pest or disease prevalence

With a view to boosting intra-Africa trade in animals, animal products, animal by-products, plants, plant products and plant by-products:

(a) State Parties undertake to recognise the concept, principles and guidelines of regionalisation and zoning as outlined in the Terrestrial and Aquatic Animal Health Codes of the OIE, and agree to apply this concept to prescribed diseases to be determined by consensus;

(b) State Parties shall, in implementing sub-paragraph a of this Article, base their respective sanitary measures applicable to the exporting State Party whose territory is affected by a disease on the zoning decision made by the exporting State Party, provided that the importing State Party is satisfied that the exporting State Party's zoning decision is in accordance with the principles and guidelines that the State Parties have agreed upon, and is based on relevant international standards, guidelines, and recommendations. The importing State Party may apply any additional measure supported by science based evidence to achieve its appropriate level of sanitary protection;

(c) State Parties may request recognition of a special status with respect to a disease not subject to zoning under sub-paragraph a of this Article. The importing State Party may request additional guarantees for imports of live animals, animal products, and animal by-products appropriate to the agreed status recognised by the importing State Party, including conditions deemed necessary by the importing State Party to achieve an appropriate level of sanitary protection;

(d) State Parties recognise the concept of compartmentalisation and agree to cooperate on this matter;

(e) State Parties shall endeavour to recognise regional conditions;

(f) when establishing or maintaining its phytosanitary measures, the importing State Party shall take into account, among other things, the pest status of an area, such as a pest-free area, pest-free place

of production, pest-free production site, an area of low pest prevalence and a protected zone that the exporting State Party has established; and

(g) the exporting State Party claiming that areas within its territory are pest- or disease-free areas or areas of low pest or disease prevalence shall provide the necessary scientific evidence in order to demonstrate that such areas are, and are likely to remain pest- or disease-free areas or areas of low pest and or disease prevalence. For this purpose, each exporting State Party shall provide reasonable access to its territory to the importing State Party for inspection, testing and other relevant procedures.

Article 7 – Equivalence

1. The importing State Party shall accept the sanitary or phytosanitary measures of the exporting State Party as equivalent to its own if the exporting State Party objectively demonstrates, through science based and technical information including *inter alia*, reference to relevant international standards, or relevant risk assessment, that the measure would achieve the importing State Party's appropriate level of sanitary or phytosanitary protection;
2. State Parties shall, upon request, enter into consultations with the aim of achieving bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.
3. State Parties shall follow the procedures for determining the equivalence of sanitary or phytosanitary measures developed by the WTO SPS Committee, the CAC, the OIE and the IPPC.

Article 8 – Harmonisation

1. State Parties shall cooperate in the development and harmonisation of sanitary or phytosanitary measures based on international standards, guidelines and recommendations taking into account the harmonisation of sanitary or phytosanitary measures at the regional level.
2. State Parties may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, if there is a scientific justification, or as a consequence of the level of sanitary or phytosanitary protection a State Party determines to be appropriate, in accordance with the relevant provisions of Article 5 of this Annex.
3. State Parties shall fully participate in the relevant international organisations and their subsidiary bodies, in particular the CAC, the OIE and the IPPC to promote within these organisations the development and periodic review of standards, guidelines and recommendations with respect to all aspects of SPS measures.
4. If State Parties jointly identify a commodity as a priority, they shall establish harmonised sanitary or phytosanitary import requirements for that commodity.

Article 9 – Audit and verification

1. For purposes of maintaining confidence in the implementation of this Annex, an importing State Party may carry out an audit or verification, or both, of all or part of the control programme of the competent authority of the exporting State Party. An importing State Party shall bear its own costs associated with the audit or verification.
2. For purposes of paragraph 1 of this Article, the State Parties shall abide by principles and guidelines established by international standards bodies in conducting audits or verifications as agreed between the State Parties.

Article 10 – Import or export inspections and fees

1. State Parties reaffirm their rights and obligations to undertake import or export inspections while abiding by principles and guidelines established by international standard bodies in conducting inspections.
2. The importing or exporting State Party may collect fees for inspections, which shall not exceed the recovery of the costs reasonably incurred in the conduct of the inspection.
3. When import inspections reveal non-compliance with the relevant import requirements, the action taken by the importing State Party shall be based on relevant international standards or an assessment of the risk involved and not be more trade-restrictive than required to achieve the State Party's appropriate level of sanitary or phytosanitary protection.
4. The importing State Party shall notify the importer and the Competent Authority of the exporting State Party of a non-compliant consignment and the reason for non-compliance and action to be taken. The importing State Party may provide the exporter with an opportunity for a review of the decision. The importing State Party shall consider any relevant information submitted to assist in the review.

Article 11 – Transparency

1. State Parties, recognising that transparency is essential in ensuring clarity, predictability and trust in order to foster intra Africa-trade shall:
   (a) comply with transparency obligations in accordance with the procedures developed by the SPS Sub-Committee;
   (b) designate a National Focal Point for fulfilling the notification obligations established under this Article; and
   (c) notify the Secretariat of any draft, revised or adopted SPS measures for further distribution to State Parties.
2. State Parties shall endeavour to exchange information on other SPS issues including:
   (a) any significant change to the structure or organisation of a State Party's Competent Authority;
   (b) upon request, the results of a State Party's official controls and a report on the implementation of the controls carried out with respect to the provisions of this Annex;
   (c) the results of an import inspection provided for in Article 10 of this Annex in case of a rejected or a non-compliant consignment;
   (d) upon request, a risk analysis or scientific opinion that a State Party has produced in accordance with Article 5 of this Annex;
   (e) pest or disease status, including the evolution of a new disease or new pest;
   (f) any food safety issue related to a product traded between the State Parties, that poses a food safety risk; and
   (g) import requirements such as quarantine restrictions.

Article 12 – Technical consultations

1. Where a State Party has a significant concern with respect to food safety, plant health or animal health, or any other SPS measure that another State Party has proposed or implemented, the concerned State Party may request technical consultations with the other State Party.
2. The State Party so requested shall respond to the request within thirty (30) days of receipt of the request.

3. Each State Party shall provide the information necessary to avoid a disruption to trade and, as the case may be, to reach a mutually acceptable solution.
4. Where State Parties fail to reach a mutually acceptable solution, the matter may be referred to the SPS Sub-committee for consideration.

Article 13 – Emergency SPS measures

1. State Parties shall notify emergency SPS measures within forty-eight (48) hours of the decision to implement the measure. Where a State Party requests technical consultations to address the emergency SPS measure, the technical consultations shall be held within ten (10) working days of the notification of the emergency SPS measure. The State Parties shall consider any information provided through the technical consultations.
2. The importing State Party shall consider the information, that was provided in a timely manner by the exporting State Party, when making a decision with respect to a consignment that at the time of adoption and implementation of the emergency SPS measure is in transit between the State Parties. State Parties shall base their decision on the principles of risk assessment in accordance with the provisions of Article 5 of this Annex.

Article 14 – Cooperation and technical assistance

1. State Parties agree to cooperate in the implementation of obligations arising out of this Annex including on technical assistance, in particular in the following areas:
   (a) exchange of information and sharing of expertise and experience among State Parties;
   (b) adopting harmonised common positions while participating in international SPS fora relevant to the AfCFTA;
   (c) development and harmonisation of SPS measures at regional and continental levels, on the basis of established scientific data or relevant international standards;
   (d) development of infrastructure such as testing laboratories;
   (e) capacity building for public and private sector stakeholders, including through information sharing and training; and
   (f) identification or establishment of SPS centres of excellence.
2. State Parties may collaborate with regional and international SPS bodies.

Article 15 – Establishment and functions of the Sub-Committee for Sanitary and Phytosanitary Measures

1. The Committee for Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Sanitary and Phytosanitary Measures.
2. The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under this Annex or by the Committee on Trade in Goods.
3. The functions of the SPS Sub-Committee shall be to:
   (a) monitor and review the implementation of this Annex;
   (b) provide direction for the identification, prioritisation, management and resolution of SPS issues that may arise;

(c) provide a regular forum to exchange information relating to each State Party's regulatory system, including the scientific and risk assessment basis for SPS measures;

(d) prepare and maintain a document detailing the state of discussions between State Parties on their work on the recognition of equivalence of specific SPS measures;

(e) develop procedures for the implementation of provisions of this Annex;

(f) identify, establish, and monitor the implementation of a capacity building programme to support implementation of the provisions of this Annex, in conjunction with the Secretariat;

(g) identify opportunities for greater bilateral engagement, and enhanced relationships, which may include an exchange of officials between State Parties;

(h) consider SPS issues referred to it by State Parties, as expeditiously as possible;

(i) facilitate improved understanding between the State Parties on the implementation of the SPS provisions of this Annex, and promote cooperation between the State Parties on SPS issues under discussion in multilateral fora, including the WTO SPS Committee, the CAC, the OIE and the IPPC, as appropriate;

(j) identify and discuss, at an early stage, initiatives that have an SPS component, and that would benefit from cooperation;

(k) collaborate with other Sub-Committees with a view to facilitating intra-Africa trade; and

(l) undertake any other tasks as may be assigned by the Committee on Trade in Goods.

4. For purposes of paragraph 2 of this Article, State Parties shall regularly provide relevant information as may be required.

5. A State Party may refer any SPS issue to the SPS Sub-Committee:

(a) where the SPS Sub-Committee is unable to resolve an issue, the matter shall be referred to the Committee on Trade in Goods for consideration.

(b) where a State Party is not satisfied with the decision of the Sub-Committee, the State Party shall refer the matter to the Committee on Trade in Goods.

Article 16 – Dispute settlement

Any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of this Annex shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

Article 17 – Review and amendment

This Annex shall be subject to review and amendments in accordance with Articles 28 and 29 of the Agreement.

Annex 8

Transit

Article 1 – Definitions

For purposes of this Annex, the following definitions shall apply:

(a) "**AfCFTA Transit Document**" means a Customs Document for transit declaration approved by the Council of Ministers and to be utilized within the AfCFTA;

(b) "**Carrier**" means the person actually transporting transit goods or in charge of or responsible for the operation of the respective means of transport;

(c) "**Container**" means an article of transport equipment (lift-van, moveable tank or other similar structure):

(i) fully or partially enclosed to constitute a compartment intended for containing goods;

(ii) of a permanent character and accordingly strong enough to be suitable for repeated use;

(iii) specifically designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;

(iv) designed for ready handling, particularly when being transferred from one mode of transport to another;

(v) designed as to be easy to fill and empty; and

(vi) having an internal volume of one cubic metre or more;

and shall include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container. It shall not include vehicles, accessories or spare parts of vehicles, or packaging or pallets.

"**Demountable bodies**" shall be regarded as containers.

(d) "**Customs**" means the Government service responsible for the administration of the Customs Law and the collection of duties and taxes and which also has the responsibility for the application of other laws and regulations relating to the importation, exportation, movement or storage of goods;

(e) "**Customs office of departure**" means any customs office of a State Party where a transit operation commences;

(f) "**Customs office of destination**" means any Customs office of a State Party where a Customs transit operation is terminated;

(g) "**Customs office en-route**" means any Customs office where goods are imported or exported in the course of a Customs transit operation;

(h) "**Customs office of entry**" means an office of a second or other subsequent State Party where, in relation to that State, the provisions of this Annex begin to apply and includes any Customs office which, even when not situated on the frontier, is the first point of Customs control after crossing the border;

(i) "**Customs transit**" means the Customs procedure under which goods are transported under Customs control from one Customs office to another as defined in Annex A of Istanbul Convention and Specifically Annex E to the Revised Kyoto Convention;

(j) "**Customs office of exit**" means any Customs office which, even when not situated on the frontier, is the last point of Customs control before crossing the border;

(k) "**Goods**" includes all kinds of articles, wares, merchandise, animals, plants and currency, whether prohibited or not, whether meant for sale or not, and where any such goods are sold, the proceeds of such sale;

(l) "**Means of Transport**" include any vessel (including lighters and barges, whether or not ship borne, and hydrofoils), hovercraft, aircraft, motor road vehicles including cycles with engines, trailers, semi-trailers and combination of vehicles) and railway rolling stock; together with their normal spare parts, accessories and equipment carried on board means of transport (including special equipment for the loading, unloading, handling and protection of cargo and where the local situation so requires, porters and pack animals;

(m) "**Security**" means that which ensures to the satisfaction of the Customs Authority that an obligation to the Customs will be fulfilled. Security is defined as "general when it ensures that the obligations arising from several operations will be fulfilled as defined in General Annex Chapter 2 to the Revised Kyoto Convention;

(n) "**Surety**" means an undertaking made by any person to the Customs Authorities of a a State Party to answer for, or be collaterally responsible for the debt, obligation, default or miscarriage of the transit or and for the payment to transit State Parties of import duties and any other sums of money due and payable to them in the event of non-compliance with the terms and conditions of transit relating to transit traffic introduced into the transit State Party by carriers of such goods;

(o) "**Transit traffic**" means the passage of goods including unaccompanied baggage, mail, persons and their means of transport through the territories of the State Parties in accordance with the itineraries set out in Article 2(1) of this Annex;

(p) "**Transitor**" means the legal entity responsible for the conveyance of goods through the Customs operations;

(q) "**Vessel**" means any mechanically propelled ship, boat or craft with inboard engine power or any other craft moving through water carrying passengers or cargo.

Article 2 – General provisions

1. State Parties undertake to grant all transit traffic freedom to traverse their respective territories by any means of transport suitable for that purpose when coming from:
   (a) a State Party or bound to one; or
   (b) Third Parties and bound to other State Parties; or
   (c) other State Parties and bound to third countries; or
   (d) Third Parties and bound to third Parties.
2. State Parties undertake not to levy any import or export duties on the transit traffic referred to in paragraph 1 of this Article.
3. Notwithstanding paragraph 2 of this Article, and in accordance with paragraph 1 of Article 8 of this Annex, a State Party may levy administrative or service charges equivalent to services rendered.
4. For purposes of this Annex, State Parties undertake to ensure that there shall be no discrimination in the treatment of persons, goods and means of transport coming from, or bound to State Parties, and that rates and tariffs for the use of their facilities by other State Parties shall not be less favourable than those accorded to their own traffic.
5. Notwithstanding the provisions of paragraph 1 of this Article, a State Party may apply measures in accordance with Articles 26 and 27 of the Protocol on Trade in Goods.

Article 3 – Scope of application

1. This Annex shall apply to any transitor, mail, means of transport, or any shipment of bonded Goods in transit between two points either in two different State Parties or between a State Party and a Third Party.
2. The provisions of this Annex shall only apply to Transit Traffic if it is:
   (a) operated by a carrier licensed under the provisions of Article 5 of this Annex;
   (b) performed under the conditions set out in Article 4 of this Annex by means of transport approved by the Customs office of departure and issued with certificates which shall be in the form set out in Appendix III of this Annex;
   (c) guaranteed by a surety in accordance with the provisions of Article 6 of this Annex; and
   (d) undertaken under the cover of AfCFTA.
3. The provisions of this Annex shall apply only to transit goods being carried by road.

Article 4 – Approval of Means of Transport

1. The Means of Transport used in Transit trade shall be licensed by the appropriate licensing authorities of the State Parties in accordance with their national laws and regulations.
2. For purpose of paragraph 2(b) of Article 3 of this Annex Means of Transport, together with their cargo, shall be presented at the Customs offices of departure for examination to ensure that they comply with the technical conditions stipulated in Appendix II of this Annex before each transit traffic operation is undertaken.

Article 5 – Licensing of transitors and carriers

1. Any person intending to be engaged in the operation of Transit Traffic under the provisions of this Annex shall be licensed for that purpose by the competent authorities of the State Party in whose territory the person is normally resident, or established and the competent authority shall inform all the other State Parties of all the persons so licensed.
2. The conditions for the issuance of the licences referred to in paragraph 1 of this Article to persons resident, or established in a State Party shall be that:
   (a) the requirements of Article 4 of this Annex have been satisfied, in accordance with national laws; and
   (b) the applicant has not, during the previous three (3) years been convicted of a serious offence including accepting, receiving or offering bribes, smuggling, theft, destroying documents of evidence, and failing or refusing to give information relating to interstate transportation of goods.
3. The conditions for issuance of licences referred to in paragraph 1 of this Article to applicants who are not resident or established in a State Party shall be determined by each State Party in consultation with other State Parties provided that such conditions shall not be more favourable than conditions accorded to persons resident or established in that State Party.
4. Licensed carriers and Transitors, who are convicted of customs offences referred to in paragraph 2(b) of this Article, or who conceal their record of having been convicted of such offences in order to obtain a licence, or who commit such offences after they have been licensed to operate Transit Traffic, shall have their licences suspended automatically or withdrawn by the issuing authorities who shall thereupon notify the Customs Authorities of the other State Parties and the respective sureties of the action taken.

Article 6 – Bonds and sureties

All Transit Traffic operations carried under the cover of AfCFTA Transit Document shall be covered by customs bond and sureties arrangements.

Article 7 – AfCFTA Transit Document

1. Subject to conditions and regulations as approved by the Council of Ministers, each State Party undertakes to authorise a Transitor, or their authorised agent, to prepare in respect of each consignment of transit goods an AfCFTA Transit Document in accordance with the notes set out in Appendix I of this Annex.
2. The AfCFTA Transit Documents shall conform to the standard form approved by the Council of Ministers. The AfCFTA Transit Documents shall be valid for only transit operation and shall contain a sufficient number of copies for customs control and discharge required for the transport operation concerned.
3. All means of transport covered by the provisions of this Annex shall be accompanied by relevant AfCFTA Transit Documents and such documents shall, on demand, be presented by the carriers, together with the

respective means of transport and certificates to the customs offices en-route and the customs offices of destination for their appropriate actions.

Article 8 – Exemption from customs examinations and charges

1. Subject to the provisions of Articles 4 and 5 of this Annex being satisfied, goods carried in approved sealed means of transport, sealed packages, or accepted by Customs Office of Departure as goods not susceptible to tampering substitution or manipulation, and permitted to be carried unsealed shall not be subject to:

   (a) customs duties and all transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by Transit or with the cost of services rendered.

   (b) customs examination at such offices, as a general rule.

2. Notwithstanding paragraph 1 of this Article, the Customs Authorities may, where they suspect an irregularity, carry out at such offices, a partial or full examination of the goods.

Article 9 – Transit procedures

1. All Transit goods and Means of Transport shall be presented to the Customs Office of Departure together with duly completed AfCFTA Transit Documents supported by appropriate bonds and sureties as necessary for examination and affixing of customs seals.

2. The Customs Office of Departure shall decide whether the Means of Transport to be used provides enough safeguards to ensure customs security and whether the shipment may be made under the cover of a relevant AfCFTA Transit Document.

3. Where it is not possible for Goods to be transported in sealed Means of Transport or compartments, the Customs Authorities at the Customs Office of Departure may authorise the transportation in such unsealed Means of Transport or compartments and under such conditions as they may deem necessary and endorse the relevant AfCFTA Transit Document accordingly.

4. The Means of Transport used in the transportation of Goods under the provisions of this Annex shall not at the same time be used for the transportation of passengers, unless such goods are carried in a part of the Means of Transport which is adequately sealed off to the satisfaction of the Customs Office of Departure.

5. Nothing may be added, or taken from, or substituted for goods consigned under cover of an AfCFTA Transit Document during off-loading, trans-shipment or collecting.

6. The Means of Transport together with the respective AfCFTA Transit Document shall be presented to the Customs Authorities at Customs offices En-route and at Customs Offices of Destination for such administrative action as may be required under the provisions of this Annex.

7. Except where irregularities are suspected, the Customs Offices En-route within a State Party shall respect the seals affixed by the Customs Authorities of other State Parties. Such Customs Authorities may, however, affix additional seals of their own.

8. In order to prevent abuse, the Customs Authorities shall publish in legislation the specific consignments that require:

   (a) the Means of Transport to be escorted through the territory of their country, at the Transitor's expense; or

   (b) that examination of the Means of Transport and their loads be carried out enroute in the territory of their country.

9. Any unsealed shipment covered by an appropriate AfCFTA Transit Document shall have only one Customs Office of Destination.

10. If the Goods in a Means of Transport are examined at a Customs Office en-route or anywhere in the course of transportation, the Customs Authorities concerned shall affix new seals and make a certified declaration in conformity with Appendix IV of this Annex including updating of any electronic management system of the particulars of irregularities, if any, and of the new seals affixed by them.

11. In the event of an accident or imminent danger necessitating the immediate unloading in whole or part of a Means of Transport, the Carrier:

    (a) may on their own initiative take such steps as may be necessary to ensure the safety of the Goods being transported, or the Means of Transport in which they are being transported;

    (b) shall, as soon as possible thereafter, inform the Customs Office of Departure thereof; and

    (c) shall arrange, where appropriate, for the goods to be transferred to other Means of Transport in the presence of Customs Authorities concerned or any other duly designated authority in accordance with national law which shall endorse the AfCFTA Transit Document with the particulars of the Goods transferred to the other Means of Transport and where possible, apply its customs seal.

12. On arrival at the Customs Office of Destination, the AfCFTA Transit Document shall be discharged without delay. If, however, the goods cannot be immediately entered under that Customs regime, the Customs Authorities may reserve the right to discharge the document conditionally upon a new liability being substituted for that of the Surety guaranteeing the said document.

13. If the seals affixed by Customs Authorities are broken en-route otherwise than in the circumstance set out in paragraph 10 of this Article or if Goods are destroyed or damaged without breaking such seals, the procedure laid down in paragraph 11 of this Article shall, without prejudice to the application of the provisions of national laws, be followed and a certified report drawn up in the form set out in Appendix IV of this Annex.

14. When a Customs Authority is satisfied that the Goods covered by an AfCFTA Transit Document have been destroyed by *force majeure*, an exemption from payment of the duties shall be granted.

Article 10 – Obligations of State Parties and liabilities of Sureties

Subject to the provisions of Article 6 of this Annex, the obligations of State Parties and liabilities of Sureties are as follows:

(a) each State Party undertakes to facilitate the transfer to the other State Party of the funds necessary for payment of premiums or other charges claimed from Sureties under the provisions of this Annex, or for payments of any penalties which the Transitor may incur in the event of an offence being committed in the course of Transit transport operations;

(b) State Parties agree to ensure that the liabilities undertaken by sureties cover import and export duties incurred by the holder of an AfCFTA Transit Document and other persons involved in the transit transport operation under the Customs Law and regulations of the State Party in which an offence has been committed;

(c) for the purpose of determining the duties referred to in paragraph (b) of this Article, the particulars of the goods as entered in the AfCFTA Transit Document shall, unless the contrary is proved, be regarded as correct;

(d) where feasible, use the services available in other State Parties in all transit traffic operations provided such services are competitive and efficient than those offered by other State Parties;

(e) where an AfCFTA Document has not been discharged, or has been discharged conditionally, the competent authority of a State Party shall not claim from the Surety the payment referred to in paragraph (b) of this Article unless such authority has, within a period of one (1) year from the date on which the AfCFTA Transit Document was taken on charge, notified the surety of the nondischarge or conditional discharge of the document;

(f) In situations where the certificate of discharge was obtained erroneously or fraudulently, paragraph (e) of this Article shall not prevent the authorities of a State Party from taking the necessary action against the person or persons concerned at any time thereafter in accordance with their national laws;

(g) the Surety and the persons charged with an offence shall be jointly and severally liable for payment of such sums. The fact that Customs Authorities might have authorised the examination of Goods elsewhere than at a place where the business of the Customs Office of Departure or Destination is usually conducted, shall not affect the liability of the Surety;

(h) the liability of the Surety to the authorities of any State Party shall commence from the time when the AfCFTA Transit Documents are accepted by the Customs Authorities of that State Party, and shall cover only the Goods enumerated in the document;

(i) when Customs Authorities of a State Party have unconditionally discharged a AfCFTA Transit Document, they may not subsequently claim from the Surety payment in respect of the duties referred to in paragraph (b) of this Article unless the certificate of discharge was issued erroneously or fraudulently;

(j) the Transitor and Surety shall be released from their undertaking to the Customs Authorities of each State Party entered when Goods carried have been duly exported or have otherwise been accounted for satisfactorily to the Customs Authorities of the State Party concerned;

(j) the claim for payment referred to in paragraph (b) of this Article shall be made within three (3) years from the date when the Surety was notified that the relevant AfCFTA Transit Document had not been discharged or had been discharged conditionally, or that the certificate of discharge had been obtained erroneously or fraudulently. However, the period of three (3) years referred to in this Article includes a period of legal proceedings. Any claim for payment under the provisions of this Article shall be made within one (1) year from the date when the decision of the court becomes enforceable.

Article 11 – Other provisions

1. State Parties shall endeavour to establish, or facilitate the establishment of Transit or customs areas for the temporary storage of transit Goods where the direct transshipment of Goods from one Means of Transport to another is not possible.
2. The management and operation of such Transit or customs areas shall be in accordance with the customs rules and regulations of the State Party concerned.
3. State Parties undertake to permit and facilitate the establishment of cargo clearing and forwarding offices in their territories by persons, organisations or associations of other State Parties or their authorised agents, for the purpose of facilitating Transit Traffic in accordance with the national laws and regulations.
4. Each Means of Transport engaged in international Transit Traffic operations under cover of a AfCFTA Transit Document shall have affixed to its front and rear, a plate bearing the letters "AfCFTA TRANSIT", the specifications of which are set out in Appendix V of this Annex. These plates shall be so placed as to be clearly visible, removable and capable of being sealed. The seals to such plates shall be affixed by the Customs Offices of Departure and shall be removed by the authorities of the Customs Offices of Destination.
5. State Parties shall, through the Secretariat, notify each other of the specimen of seals, stamps and date stamps they use.
6. Each State Party shall, through the Secretariat, send to the other State Parties, a list of its customs offices and stations and normal working hours of such offices.
7. Neighbouring State Parties shall consult each other in determining the frontier customs offices to be included in the list referred to in paragraph 6 of this Article, and where possible such offices shall be juxtaposed.
8. In all customs operations referred to in this Annex, no charges shall be levied for customs attendance, save where it is provided on days or at times or places other than those appointed for such operations.

9. Whenever possible, customs frontier offices shall remain open for business for twenty-four (24) hours a day or shall allow execution of customs formalities relating to the transportation of Goods under the provisions of this Annex outside the normal working hours.
10. Any breach of the provisions of this Annex by a Carrier shall render the Carrier liable to penalties prescribed by law in the State Party where the offence is committed.
11. Nothing contained in this Annex shall prevent State Parties from enacting legislation in respect of transport operations commencing or terminating in or passing through their territories, provided that the provisions of such legislation:
    (a) shall not conflict with the provisions of this Annex; and
    (b) do not confer benefits on Third Parties that are more favourable than those enjoyed by the State Parties.
12. All the AfCFTA Transit Documents may have a note explaining how that particular document should be used.

Article 12 – Sub-Committee on Trade Facilitation, Customs Cooperation and Transit

1. The Committee on Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Trade Facilitation, Customs Cooperation and Transit.
2. The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under this Annex or by the Committee on Trade in Goods.

Article 13 – Implementation

1. State Parties shall expedite the implementation of this Annex.
2. The extent and the timing of implementation of the provisions of this Annex shall be related to the implementation capacities of State Parties as notified to the AfCFTA Subcommittee on Trade Facilitation or under the WTO Agreement on Trade Facilitation.

Article 14 – Regulations

The Council of Ministers shall adopt regulations to facilitate the implementation of this Annex.

Article 15 – Conflict of provisions

In the event of a conflict between this Annex and the Agreement, the latter shall prevail.

Article 16 – Dispute Settlement

Any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of this Annex, shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

Article 17 – Review and amendment

1. This Annex shall be subject to review and amendments in accordance with Articles 28 and 29 of the Agreement.

Appendix I

Notes for the use of the African Continental Free Trade Area Transit Document

1. The AfCFTA Transit Document herein after referred to as " AfCFTA TD" shall be prepared in the country of commencement where the goods are first declared to be in transit.
2. The AfCFTA TD shall be printed in the Arabic, English, French and Portuguese languages, but completed in the language of the country of commencement. The Customs Authorities of the other countries traversed reserve the right to require their translation into their own language.

   In order to avoid unnecessary delays which might arise from this requirement, carriers are advised to supply the operator of the means of transport with the requisite translations.
3. The AfCFTA TD remains valid until completion of the transit operation at a customs office of destination, provided that it has been taken under customs control at the customs office of commencement within the time limit given by issuing authorities and meets the following requirements:

   a) The AfCFTA TD must be typed or multi-graphed or printed legibly;

   b) When there is not enough space on the manifest to enter all the goods carried, separate sheets to the same model as the manifest may be attached to the latter but all copies of the manifests must contain the following particulars:

      (i) a reference to the sheets;

      (ii) the number, type of packages and goods in bulk be enumerated on the separate sheets; and

      (iii) the total value and total gross weight of the goods appearing on the said sheets.
4. Weights, volume and other measurements shall be expressed in units of the metric system and values in the currency of the country of commencement, or in the currency determined by the Council of Ministers.
5. No erasures or over-writing shall be allowed on the AfCFTA TD. Any correction shall be made by deleting the incorrect particulars and adding, if necessary, the required particulars.
6. Any correction, addition or other amendment shall be acknowledged by the person making it and countersigned by the Customs Authorities.
7. When the AfCFTA TD covers coupled means of transport, or several containers, the contents of each means of transport shall be indicated separately on the manifest.

   This information shall be preceded by the registration of identification number of the means of transport or container.
8. If there is more than one customs office of destination, the entries concerning the goods taken under customs control at, or intended for, each office shall be clearly separated from each other on the manifest.
9. In the event of customs seals being broken or goods being destroyed or damaged accidentally en-route, the operator of the means of transport shall ensure that a certified report is drawn up as quickly as possible by the authorities of the country in which the vehicle is located.
10. The operator shall approach the Customs Authorities, if there are any near at hand, or if not, any other competent authorities. Operators shall accordingly provide themselves with copies of the certified report form laid down in Appendix IV of this Annex on Transit Facilities within the AfCFTA.

Appendix II

Regulations relating to technical conditions applicable to means of transport of goods within the African Continental Free Trade Area under Customs seal

1. Approval for the intra-African Continental Free Trade Area transport of goods by means of transport under Customs seal may be granted only for means of transport constructed and equipped in such a manner that:
   (a) customs seals can be simply and effectively affixed thereto;
   (b) no goods can be removed from, or introduced into the sealed part of the means of transport without obvious damage to it or without breaking the seals; and
   (c) they contain no concealed spaces where goods may be hidden.
2. The means of transportation shall be so constructed that spaces in the form of compartments, receptacles or other recesses which are capable of holding goods are readily accessible for customs inspection.
3. Should any empty spaces be formed by the different layers of the sides, floor and roof of the means of transport, the inside surface shall be firmly fixed, solid unbroken and incapable of being dismantled without leaving obvious traces.
4. Openings made in the floor for technical purpose, such as lubrication, maintenance and filing of the sand-box, shall be allowed only on condition that they are fitted with a cover capable of being fixed in such a way as to render the loading compartment inaccessible from the outside.
5. Doors and all other closing systems of means of transport shall be fitted with a device which shall permit simple and effective customs sealing. This device shall either be secured by at least two bolts, riveted or welded to the nuts on the inside.
6. Hinges shall be so made and fitted that doors and other closing systems cannot be lifted off the hinge-pins, once shut; the screws, bolts, hinge-pins and other fasteners shall be welded to the outer parts of the hinges. These requirements shall be waived, however, where the doors and other closing systems have a locking device inaccessible from the outside which, once it is applied, prevents the doors from being lifted off the hinge-pins.
7. Doors shall be so constructed as to cover all interstices and ensure complete and effective closure.
8. The means of transport shall be provided with a satisfactory device for protecting the Customs seal, or shall be so constructed that the customs seal is adequately protected.
9. The foregoing conditions shall also apply to insulated vehicles, refrigerator vehicles, tank vehicles and furniture vehicles in so far as they are not incompatible in accordance with their use.
10. The flanges (filler caps), drain cocks and manholes of tank wagons shall be so conducted as to allow simple and effective customs sealing.
11. Folding, or collapsible containers are subject to the same conditions as non-folding or non-collapsible containers, provided that the locking device enabling them to be folded or collapsed allows customs sealing and that no part of such container can be moved without breaking the seals.

Appendix III

Certificate of approval of means of transport

[Please note: The certificate has not been reproduced. Please refer to the publication document.]

Appendix IV

Certified declaration form for examination of contents of means of transport

[Please note: The form has not been reproduced. Please refer to the publication document.]

Appendix V

AfCFTA Transit plates

1. The words " AfCFTA TRANSIT" shall be 70 millimetres high.
2. Roman letters shall be used.
3. The letters shall be white on a blue background.
4. The letters shall be arranged as follows:

AfCFTA TRANSIT

Annex 9

Trade Remedies

Article 1 – Definitions

For purposes of this Annex, the following definitions shall apply:

(a) "**AfCFTA Guidelines**" means the Guidelines on Implementation of Trade Remedies;

(b) "**Domestic Industry**" means the producers of the like product, (or directly competitive products in safeguards) in the importing State Party whose collective output represents a major portion of the total domestic production of that product;

(c) "**Dumping**" is when a product is introduced into the commerce of another State Party at less than normal value; if the export price of the product exported from one State Party to another is less than the comparable price in the ordinary course of trade for the like product when destined for consumption in the exporting State Party;

(d) "**Injury**" means material injury or threat of material injury to a domestic industry or material retardation of the establishment of an industry;

(e) "**Serious Injury**" in relation to safeguards means significant overall impairment in the position of a domestic industry;

(f) "**Interested Parties**" shall include:

(i) an exporter or foreign producer or the importer of a product subject to investigation or a trade or business association a majority of the members of which are producers, exporters or importers of such product;

(ii) a producer of the like product in the importing State Party or a trade and business association a majority of the State Parties of which produce the like product in the territory of the importing State Party;

(iii) the government of the third country of origin and of the exporting State Party of the product under investigation; and

(iv) any other domestic or foreign party determined by the investigating authority;

(g) "**Investigating Authority**" means the authority charged with the responsibility of conducting trade remedies investigations in a State Party;

(h) "**Properly Documented Application**" means a written complaint made by or on behalf of the domestic industry in the required format;

(i) "**Safeguards**" means a measure adopted by a State Party where a product is being imported into its territory in such increased quantities, absolute or relative to its domestic production, and under such conditions as to cause or threaten to cause serious injury to its domestic industry that produces like or directly competitive products; and

(j) "**Threat of Serious Injury**" shall be understood to be serious injury that is clearly imminent. A determination of the existence of a threat of serious injury shall be based on facts not merely on allegation, conjecture or remote possibility.

Article 2 – Application of anti-dumping, countervailing and safeguard measures

State Parties may, with respect to goods traded under the provisions of this Annex, apply anti-dumping, countervailing and safeguard measures as provided for in Articles - 17-19 of the Protocol on Trade in Goods, this Annex and the AfCFTA Guidelines in accordance with relevant WTO Agreements.

Article 3 – Application of global safeguard measures

State Parties confirm their rights and obligations under Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

Article 4 – Application of preferential safeguard measures

1. Where, as a result of implementing the Agreement, any product originating in a State Party is being imported into the territory of another State Party in such increased quantities, absolute or relative to domestic production, and under such conditions so as to cause or threaten to cause Serious Injury to the Domestic Industry of like or directly competitive products, such a State Party may apply preferential safeguard measures under the conditions and in accordance with the procedures laid down in this Annex and the AfCFTA Guidelines.

2. A State Party intending to apply definitive preferential safeguard measures shall, before applying such measures, supply the other State Parties concerned with all relevant information, with a view to seek a solution acceptable to all State Parties concerned.

3. The State Party shall examine the information provided in paragraph 2 of this Article in order to facilitate a mutually acceptable resolution of the matter.

4. Where no resolution is reached, the importing State Party may apply preferential safeguard measures as provided for by this Article.

5. The preferential safeguards measures referred to in paragraph 4 of this Article shall immediately be notified to the Secretariat which shall notify all other State Parties.

6. The preferential safeguard measure shall be applied only to the extent necessary to prevent or remedy Serious Injury or threat thereof and to facilitate adjustment following an investigation by the importing State Party under the procedures established in this Annex and the AfCFTA Guidelines.

7. Preferential safeguard measures shall not exceed a period of four (4) years and shall contain clear indications of their progressive elimination at the end of the determined period. The preferential

safeguard measure may be extended for another period not exceeding four (4) years, subject to justification by the Investigating Authority.

8. A State Party shall not apply a global safeguard measure simultaneously with the preferential safeguard measure on the same product within the AfCFTA.

Article 5 – Provisional safeguard measures

1. In critical circumstances where delay would cause damage which would be difficult to repair, the State Party concerned may take a provisional preferential safeguard measure pursuant to a preliminary determination that there is clear evidence that increased imports have caused, or are threatening to cause Serious Injury.
2. The State Party intending to apply such a provisional safeguard measure shall, prior to such application, immediately notify the Secretariat and State Parties concerned.
3. The duration of the provisional safeguard measure shall not exceed two hundred (200) days, during which period the pertinent requirements of this Annex and the AfCFTA Guidelines shall be met. The duration of such provisional safeguard measures shall be counted as part of the initial period and any extension referred to in this Annex and the AfCFTA Guidelines.
4. Such measures shall take the form of tariff increases to be promptly refunded if the subsequent investigation referred to in this Annex and the AfCFTA Guidelines does not determine that increased imports have caused or threatened to cause Serious Injury to a Domestic Industry.

Article 6 – Notification

1. In anti-dumping investigations, the Investigating Authority shall avoid, unless a decision has been made to initiate an investigation, any publicising of the application of initiation of any investigation according to the Anti-dumping Agreement, this Annex and the AfCFTA Guidelines. However, after receipt of a properly documented application, and before proceeding to initiate an investigation, the Investigating Authority shall notify the State Party concerned.
2. In subsidies and countervailing investigations, where the Investigating Authority is satisfied that there is sufficient evidence to justify the initiation of an investigation, the State Parties shall be notified.
3. In global safeguard investigations, a State Party shall immediately notify all State Parties of such initiation of the global safeguard investigations according to the WTO Agreement on Safeguards.
4. In preferential safeguard investigations, a State Party shall immediately notify such initiation of the preferential safeguard investigations according to this Annex and the AfCFTA Guidelines.

Article 7 – Consultation

1. Once an Investigating Authority of a State Party has received a properly documented application in subsidies and countervailing cases, from its representative Domestic Industry, or upon its own initiative and upon establishment of a *prima facie* case, such State Party shall hold consultations as provided for in the AfCFTA Guidelines.
2. In preferential safeguard investigations an Investigating Authority of the State Party shall initiate consultations immediately after the provisional safeguard measure is taken.
3. An Investigating Authority intending to apply or extend the period of a safeguard measure shall provide adequate opportunity for prior consultations with the State Parties with substantial interest.
4. Where a mutually agreed solution is reached following consultation, a written agreement on the terms agreed upon shall be produced and the State Party concerned shall notify the Secretariat.

5. The written agreement referred to in paragraph 4 of this Article shall bind the State Parties involved and shall be implemented as provided for in the AfCFTA Guidelines.
6. If no agreed solution is reached, the State Party requesting the consultations shall proceed to initiate and complete its investigation and to implement appropriate measures in accordance with the provisions of the relevant WTO Agreements, this Annex and the AfCFTA Guidelines.

Article 8 – Confidentiality

Information which is by nature confidential, or which is provided on a confidential basis by State Parties to an investigation, shall be treated as such by the Investigating Authorities and shall not be disclosed without specific permission of the parties submitting it.

Article 9 – Transparency

1. All Interested Parties shall have an opportunity to defend their interests.
2. Notwithstanding paragraph 1 of this Article, there shall be no obligation on any party to attend a meeting, and failure to do so shall not be prejudicial to that party's case.
3. Interested Parties shall have the right, on justification, to present information orally.
4. Oral information referred to in paragraph 3 of this Article shall be taken into account by the authorities only in so far as it is subsequently reproduced in writing and made available to other Interested Parties.

Article 10 – Technical Assistance

Technical Assistance to State Parties shall be provided by the Secretariat in collaboration with partners, on request by such State Parties, in order to enhance the capacities of State Parties in the application of trade remedies measures in accordance with the provisions of this Annex and the AfCFTA Guidelines.

Article 11 – Capacity building and cooperation

1. The Secretariat shall in collaboration with partners facilitate training and capacity building programmes in order to assist State Parties with the implementation of trade remedies as provided for in this Annex and the AfCFTA Guidelines, in the adoption of the necessary national legislation, the establishment of national investigating authorities and other required institutions, the training of officials and other stakeholders involved in the implementation of this Annex and the AfCFTA Guidelines.
2. State Parties are encouraged to cooperate in the area of trade remedies specifically in the dissemination of information to all relevant AfCFTA stakeholders and private parties.

Article 12 – Sub-Committee on Trade Remedies

1. The Committee for Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Trade Remedies.
2. The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under this Annex or by the Committee on Trade in Goods.

Article 13 – AfCFTA Guidelines on Implementation of Trade Remedies

1. The AfCFTA Guidelines on the Implementation of Trade Remedies shall, upon adoption, form an integral part of this Annex.

2. Pending the adoption of the AfCFTA Guidelines, the relevant provisions of the WTO Agreements, national legislation and regional economic communities agreements relating to trade remedies may apply, where applicable.

Article 14 – Dispute settlement

Any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of this Annex and its Guidelines, shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes taking into account the special nature of trade remedies.

Article 15 – Review and amendment

This Annex shall be subject to review and amendments in accordance with Articles 28 and 29 of the Agreement.

Annexes to the Protocol on Rules and Procedures on the Settlement of Disputes

Annex 1 (Under article 15(10))

Working procedures of the Panel

1. The Panel shall meet in closed session. Any other party shall be present at the meetings only when invited by the Panel to appear before it.
2. The deliberations of the Panel and the documents submitted to it shall be kept confidential. Nothing in this Protocol shall preclude a Party to a Dispute from disclosing statements of its own position to the public.
3. Parties to a Dispute and any other party shall treat as confidential all information presented by another Party to a Dispute to the Panel which that Party to a Dispute has designated as confidential.
4. Where a Party to a Dispute or a Third Party submits a confidential version of its written submissions to the Panel, it shall also, upon request by a Party to a dispute, provide a non-confidential summary of the information contained in its submissions that could be disclosed to the public.
5. Before the first substantive meeting of a Panel with the Parties to a Dispute, the Panel shall request the Parties to a Dispute to submit written submissions presenting the facts of the case and arguments of the parties to the Dispute.
6. At the first substantive meeting of the Panel, the Complaining Party shall present its case and immediately thereafter the Party against whom the complaint is brought shall present its case.
7. Third Parties who notify their interest in a dispute to the DSB shall be invited in writing to present their views at a session of the first substantive meeting set aside for that purpose and may be present during the entire session.
8. The Parties to a dispute shall submit their written rebuttals to the Panel prior to the second substantive meeting. Formal rebuttals shall be made at the second substantive meeting of the Panel and the Party against whom a complaint is brought shall have the right to be heard first.
9. The Panel may at any time request the Parties to a Dispute for written or oral explanations at a meeting in which the Parties to the Dispute are present. Oral explanations shall be taken into account by the Panel only in so far as it is subsequently reproduced in writing and made available to other Parties. The Parties to the Dispute and any Third Party invited to present its views in accordance with Article 13 of the Protocol on Rules and Procedures on the Settlement of Disputes, shall make available to the Panel a written version of their oral statements.

10. In the interest of transparency, presentations, rebuttals and statements including the submissions of the Parties to a Dispute shall be made available to the other Party or Parties without undue delay.

11. Each Party's written submissions, including any comments on the descriptive part of the report and responses to questions put by the Panel, shall be made available to the Party to the dispute or Third parties.

12. The Panel shall adopt a time table in accordance with Article 15 (2) and 15 (3) of the Protocol, taking into account the timetable proposed hereunder:

a)	receipt of first written submissions of the parties:	
	(i) Complaining Party:	3-6 weeks
	(ii) Party complained against:	2-3 weeks
b)	date, time and place of first substantive meeting with the Parties:	
	(i) Third Party sessions:	2 weeks
	(ii) Receipt of written rebuttals of the Parties:	2-3 weeks
c)	date, time and place of second substantive meeting with the Parties:	1 -2 weeks
d)	Issuance of descriptive part of the report to the Parties:	2-4 weeks
e)	receipt of comments from the Parties on the descriptive part of the report:	2 weeks
f)	issuance of the interim report, including the findings and conclusions, to the parties:	2-4 weeks
g)	deadline for party to request review of part(s) of report:	1 week
h)	period of review by Panel, including possible additional meeting with parties:	2 weeks
i)	issuance of final report to parties to the dispute:	2 weeks

j)	circulation of the final report to the State Parties:	3 weeks

Annex 2

Expert review groups

The following rules and procedures shall apply to expert review groups established in accordance with the provisions of paragraph 6 of Article 16 of the Protocol on the Rules and Procedures on the Settlement of Disputes:

(a) experts shall be under the Panel's authority. Their terms of reference and detailed working procedures shall be decided by the Panel, and they shall report to the Panel;

(b) participation as experts shall be restricted to persons of professional standing and experience in the field in question;

(c) citizens of Parties to the Dispute shall not serve as experts without the joint agreement of the Parties to the Dispute, except in exceptional circumstances where the Panel considers that the need for specialised scientific expertise cannot be fulfilled otherwise;

(d) government officials of Parties to the dispute shall not serve on an expert review group. Members of expert review groups shall serve as experts in their individual capacities and not as government representatives, nor as representatives of any organisation. Governments or organisations shall therefore not give them instructions with regard to matters before them;

(e) experts may consult and seek information and technical advice from any source they deem appropriate. Before an expert seeks information or advice from a source within the jurisdiction of a State Party, that expert shall inform the government of that State Party. Any State Party shall respond promptly and fully to any request by an expert for such information as the expert considers necessary and appropriate;

(f) the Parties to a Dispute shall have access to all relevant information provided to an expert, unless it is of a confidential nature. Confidential information provided to the expert shall not be disclosed without formal authorisation from the government, organisation or person providing the information. Where such information is requested from the expert but release of such information by the expert is not authorised, a non-confidential summary of the information will be provided by the government, organization or person supplying the information; and

(g) the expert shall submit a draft report to the Parties to the Dispute with a view to obtaining their comments, and taking them into account, as appropriate, in the final report, which shall also be issued to the parties to the Dispute when it is submitted to the Panel. The final report of the expert shall be advisory only.

Annex 3

Code of Conduct for arbitrators and Panelists

Article 1 – Commitment to the process

1. The arbitrators and Panelists shall abide by the terms of the Agreement.
2. The arbitrators and Panelists shall be independent and impartial, shall avoid direct or indirect conflict of interest and shall respect the confidentiality of the proceedings as provided in the Protocol on Rules and Procedures on the Settlement of Disputes so as to preserve the integrity and impartiality of the dispute settlement mechanism.

Article 2 – Disclosure obligations

1. To ensure the observance of this Code, each arbitrator and Panelist shall prior to the acceptance of their selection disclose the existence of any interest, relationship or matter that they could reasonably be expected to know and that is likely to affect or could raise justifiable doubt as to the arbitrator or Panelist's independence or impartiality, including public statements of personal opinion on issues relevant to the Dispute and any professional relationship with any person or organisation with an interest in the case.
2. The disclosure obligation referred to in paragraph 1 of this Article shall be a continuing duty which requires an arbitrator or Panelist to disclose any such interests, relationships or matters that may arise during any stage of the proceeding. The arbitrator or Panelist shall disclose such interests, relationships or matters to the DSB in writing, for consideration by the Parties.

Article 3 – Duties of arbitrators and Panelists

1. Upon selection, an arbitrator or a Panelist shall perform his or her duties thoroughly and expeditiously throughout the course of the proceedings, with fairness and diligence.
2. An arbitrator or Panelist shall consider only those issues raised in the proceedings and necessary for an award. They shall not delegate this duty to any other person.
3. An arbitrator or Panelist shall not engage in ex parte contact concerning the proceedings.
4. Experts shall notify the Panel of arbitrators about any attempt to interfere in the proceedings or in the missions that are entrusted to them by any Party

Article 4 – Independence and impartiality of arbitrators and Panelists

5. An arbitrator or Panelist shall exercise his or her position without accepting or seeking instruction from any government, inter-governmental, or non-governmental organisation or any private source.
6. An arbitrator or Panelists shall not have intervened in any previous stage of the dispute assigned to him or her.
7. An arbitrator or Panelist shall be independent and impartial and shall not be influenced by self-interest, political considerations or public opinion.
8. An arbitrator or Panelist shall not, directly or indirectly, incur any obligation or accept any benefit that would in any way interfere with, or which could give rise to justifiable doubts as to, the proper performance of his/her duties.
9. An arbitrator or Panelist may not use his/her position on any Panel to advance any personal or private interests.
10. An arbitrator or Panelist shall not allow financial, business, professional, family or social relationships, to influence his or her conduct, judgment or impartiality.

Article 5 – Confidentiality

1. Any current or former arbitrator or Panelist shall not at any time, disclose or use any confidential information concerning a proceeding or acquired during proceedings except for the purposes of those proceedings and shall not disclose or use any such confidential information to gain personal advantage or advantage for others or to adversely affect the interest of others.
2. An arbitrator shall not disclose the contents of an award prior to its publication.

3. A Panelist shall not disclose the contents of a Panel report prior to its circulation to the State Parties.
4. Any current or former arbitrator or Panelist shall not at any time disclose the deliberations of a Panel, arbitration proceedings or any Panelist's view.
5. Any current or former arbitrator or Panelist that breaches or discloses any confidential information concerning the proceedings shall be subject to sanctions as shall be deemed fit by the DSB.

