

Tax & Legal Alert
October 2022



Tax Alert

Preferential treatment of goods imported from AfCFTA

The East African Community Council of Ministers ('Council') has approved preferential tariff treatment on originating goods imported from State Parties of the African Continental Free Trade Area (AfCFTA) vide Legal Notice No. EAC/321/2022 dated 06 September 2022. The preferential treatment will apply on Category A Products which covers products that will be liberalized within 10 years using linear approach for developing countries.

Background

The 18th African Union Assembly held in January 2012, endorsed a comprehensive framework towards the attainment of developmental regionalism in the continent, through its decision to establish an AfCFTA. The main objectives of the AfCFTA are to create a single continental market for goods and services, with free movement of business persons and investments.

The AfCFTA was established on 21 March 2018 through an agreement signed by 54 Countries and ratified by 44 countries. Further, the AfCFTA entered into force on 30 May 2019 following the deposit of the 22nd instrument of ratification on 29 April 2019. Trading of goods under the AfCFTA framework was scheduled to commence on 1 January 2021 but no meaningful trade has been conducted due to delays in concluding Rules of Origin on sensitive goods that account for 7% of the tariff lines.

Under the AfCFTA, the State Parties agreed to liberalise 90% of the tariff lines progressively over a period of 10 years using a straight linear approach. These products are covered under Category A which include agricultural produce, animals and their derivatives, minerals, metals, chemicals, plastic in its primary form and articles thereof, paper, textile and clothing, ceramic wares, fishing equipment, towers and lattice masts, road guard rails, machinery and parts thereof, tankers, crane lorries, ambulance motorcycles etc.

Category B covers sensitive products that will be liberalised over a period of 15 years while category C covers products that are excluded from the liberalisation.

So far 43 countries have submitted their tariff offers out of which 29 have been verified as compliant with the tariff liberalisation modalities.

The AfCFTA will be governed by five operational instruments, that is:

- The Rules of Origin;
- The online negotiating forum;
- The monitoring and elimination of non-tariff barriers;
- A digital payments system; and
- The African Trade Observatory.

Approval of preferential tariff treatment on originating Category A products imported from State Parties

The Council has approved preferential tariff treatment on originating Category A products imported from State Parties vide Legal Notice No. EAC/321/2022 dated 06 September 2022.

This implies that Category A products originating from AfCFTA member countries will be imported at reduced import duty rates in accordance with the EAC tariff offers.

Based on the EAC tariff offers, import duty rates will be reduced progressively by 10% per year using a linear approach. For example, if a product currently attracts 35%, then the duty rate will be reduced by 10% (3.5%) to 31.5% in the first year i.e. 2021, by another 3.5% in the second year to 28% in 2022 and so forth.

The AfCFTA Guided Trade Initiative

The AfCFTA secretariat launched the Guided Trade Initiative on 7 October 2022 that will serve as a gateway to encourage continued trade under the AfCFTA.

The initiative will entail importation of products by eight selected countries on a pilot basis. The countries include Cameroon, Egypt, Ghana, Kenya, Mauritius, Rwanda, Tanzania and Tunisia.

The Guided Trade Initiative has targeted specific products in line with AfCFTA focus on value chain development including ceramic tiles, batteries, tea, coffee, processed meat products, corn starch, sugar, pasta, glucose syrup, dried fruits, and sisal fibre, amongst others.

The pilot phase will be open to all importers who have all required documents to trade under the AfCFTA in a technically verified country, ready to trade under the Agreement's preferences.

According to the AfCFTA Secretariat, the Guided Trade Initiative is geared towards:

- Allowing commercially meaningful trading under the AfCFTA;
- Testing the operational, institutional, legal and trade policy environment under the AfCFTA; and
- Sending an important positive message to the African economic operators.

Our View

Importation of Category A products under the AfCFTA framework was scheduled to commence on 1 January 2022. However, the EAC had not incorporated enabling provisions in the community laws to allow for preferential treatment of goods imported from the State Parties of the AfCFTA.

The approval of the preferential rates by the Council is therefore a welcome move that will enable importers to enjoy reduced import duty rates on goods imported from the AfCFTA State Parties.

However, the liberalised tariffs will be implemented on a pilot basis by the seven countries selected under the Guided Trade Initiative. The Guided Trade Initiative is expected to identify teething issues that may occur during implementation of the AfCFTA to enable the Secretariat to put in place measures that will facilitate smooth implementation of the AfCFTA.

The AfCFTA is expected to increase market accessibility for products within the African countries and promote intra-Africa trade. This will ultimately promote growth of local industries within the continent by encouraging specialization of certain industries in the continent.

The AfCFTA will lead to a reduction in production costs that will ultimately reduce the prices of locally manufactured products and increase their competitiveness globally.



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