

Free Movement of People:

The African
Continental
Free Trade Area



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Chief Operating Officer

ELA

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The ELA Presents



Free Movement of People: The African Continental Free Trade Area

Date: July 20, 2021
Time: 2:00 p.m. West African Time
Duration: 1 hour



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M O D E R A T O R

NUNO GOUVEIA

Partner
Angola, Gabon, Guinea-Bissau &
Mozambique

nuno.gouveia@mirandalawfirm.com

mirandaalliance

Panelists



Adail Cardoso
Managing Associate
Fátima Freitas
Angola



Rosa Nduati-Mutero
Partner
Anjarwalla & Khanna LLP
Kenya



Meryem Zoubir
Senior Lawyer
CWA Morocco
Morocco



Jumoke Lambo
Partner
Udo Udoma & Belo-Osagie
Nigeria



Lenja Dahms-Jansen
Partner
Bowmans
South Africa

Overview

Free Movement of People: The African Continental Free Trade Area

- Political and Economic Background of each Country's AfCFTA Ratification
- Challenges for Ratification and Implementation
- AfCFTA vs Regional Economic Communities and Preferential Trade Agreements
- Risk of New Fragmentation in African Trade?
- Rights of Residence and Establishment to Work
- Recognition of Foreign Qualifications
- Harmonization of Social Security Systems
- Free Movement of People in Africa: Is it attainable?



ADAIL CARDOSO

Angola

adail.cardoso@fatimafreitas.com



The AfCFTA and Angola

- Ratification of the AfCFTA by Angola
- Member to various Regional Economic Communities
- Implementation of the AfCFTA
- Visa waiver programs
- No social security harmonization



The AfCFTA and Angola



Adail Cardoso
Managing Associate
Fátima Freitas
Angola

- Angola ratified the AfCFTA on 6 October 2020: The customs code should be updated once negotiations on preferential rates are finished and various infrastructure projects have been launched, e.g. the Barra do Dande Project and the Lobito Corridor Port.
- Member of ECCAS – The Economic Community of Central African States since 1999 (not a member of CEMAC – The Economic and Monetary Community of Central Africa) and one of the founders of SADC – Southern Africa Development Community.
- Angola is not a party to ECCAS Protocols on Free Trade nor to the 1983 ECCAS Protocol on Freedom of Movement and Rights of Establishment of Nationals of Members States.
- Angola is considering to accede to the 2016 Amended SADC Protocol on Trade and proceed with application of preferential rates within the SADC.
- Angola is a signatory of the 2014 SADC Protocol on Employment and Labour, which provides for programmatic rules on immigration control and non-discrimination of migrant workers.
- Visa waiver programs with Namibia, Zambia, South Africa and the African Portuguese-speaking countries, but no program affords the rights to work, seek employment or establish residence.
- With the exception of regulated professions (e.g. medical and legal professionals) or jobs that entail specific certifications (e.g. HSE Technicians), the regime for the recognition of foreign educational and/or professional qualifications is quite liberal.
- No Social Security harmonization with any African country.



ROSA NDUATI-MUTERO

Kenya

rn@africalegalnetwork.com



The AfCFTA and Kenya

- 21 March 2018 - Kenya signs the AfCFTA Agreement.
- 10 May 2018 - Kenya became one of first African countries, to deposit its instruments of ratification of AfCFTA.
- The Africa Visa Openness Report 2020 notes that African “countries that relaxed visa regimes and adopted visa-free and visa-on-arrival policies have seen economic benefits in recent years, attracting growing numbers of business and leisure travelers”.
 - The case of **Rwanda, Kenya and Uganda** highlights the positive effect of movement of people on cross-border trade. By revising the administrative procedures for work permits and entry visas, these countries increased cross-border trade with each other by 50%.



The AfCFTA and Kenya



Rosa Nduati-Mutero
Partner
Anjarwalla & Khanna LLP
Kenya

- Kenya is a member of the **EAC, COMESA** and **IGAD**.
- Kenya has lifted visa requirement for **15 African** countries in order to boost the movement of people.
- Kenya is an active member of the **East African Community (EAC)** which is made up of 6 member states: **Kenya, Tanzania, Uganda, Burundi, South Sudan and Rwanda**. The EAC was reestablished through the signing of the Treaty for the Establishment of the East African Community (the Treaty) in 1999.
- **Free Movement - Under article 104 of the Treaty**, the Partner States agreed to adopt measures to achieve free movement of persons, labor and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the community.
 - **East African Community Common Market Protocol** allows for certain classes of workers who are nationals of member states to move freely within the EAC region in pursuit of employment opportunities.
 - Through the EAC, Kenyans, Ugandans, Rwandans, and Tanzanians can travel to and from each country using only their national identity cards.

The AfCFTA and Kenya



Rosa Nduati-Mutero
Partner
Anjarwalla & Khanna LLP
Kenya

- **Challenges of implementing the AfCFTA:**
 - **Trade facilitation and Logistics** - As a country, we have made some efforts to address the trade facilitation challenges that limit our export growth. This includes the Single Window System, the launch of the Integrated National Export Development and Promotion Strategy and so on. However, the persistent issues in our transport systems hinder our own internal movement – from Port to ICDs to factories.
 - **Outstanding challenges and impacts of COVID-19** - The decline in informal cross border trade, increased transit times along northern and central corridors, and a heightened dependence on commodity exports.
- The Kenya National Qualifications Authority (KNQA) is part of the African Qualifications Verification Network (AQVN) that **aims to create a common educational system for Africa by 2023.**
- No specific harmonization of Kenya’s social security system with that of third-party African countries.
 - The social security system in Kenya is partly linked to an individual's employment status.



MERYEM ZOUBIR

Morocco

meryem.zoubir@cwassocies.com



The AfCFTA and Morocco

- **21 March 2018:** Signature of the Legal Instruments at the AU Extraordinary Summit on the AfCFTA.
- **21 February 2019:** Morocco adopted the draft law No. 11-19 ratifying the agreement to create the African Continental Free Trade Area.
- **May 2021:** Meeting between the FA Minister and the Continental Free Trade Area (AfCFTA) Secretary General, Wamkele Mene. Moroccan government reaffirmed Morocco's commitment to working for the finalization of its offer regarding trade in goods and services, in support of the AfCFTA Secretary General's efforts, with a view to a strong and sustainable partnership. The two parties also discussed the conclusion of Phase II on protocols relating to investment, intellectual property rights, competition and electronic commerce, recalling the role of the AfCFTA Secretariat in supporting member states to speed up the negotiations of these instruments.

The AfCFTA and Morocco



Meryem Zoubir
Senior Lawyer
CWA Morocco
Morocco

- Morocco has invested, since 2008, **more than 3 billion dollars** on the continent and becomes, today, **the largest African investor in West Africa** and the second largest African investor across the continent. (Africa concentrates 2/3 of Morocco's foreign direct investments (FDI)).
- In the region of West Africa alone, the Kingdom has launched 13 large-scale projects to strengthen regional integration in this area.
- Morocco is bound to African countries by **more than 1,000 cooperation agreements** covering all areas of social and economic development, in addition to significant Moroccan investments made in more than **25 African countries**, and training programs in Moroccan institutes that have benefited tens of thousands of African executives.
- Morocco is a member of the Agadir Free Trade Agreement between Morocco, Egypt and Tunisia.
- The WAEMU and CAEMC agreements awaiting ratification.

The AfCFTA and Morocco



Meryem Zoubir
Senior Lawyer
CWA Morocco
Morocco

Important Future African Projects of Morocco

- West-African Gaz pipeline with Nigeria: 20 billion dollars
- Fertilizers Plants with Ethiopia: 3.7 billion dollars
- Assistance in Building the New Capital of South-Sudan: (Project total cost: 10 billion dollars/20 years) Morocco's Financial Aid in the preliminary stage: 5.1 million dollars

The AfCFTA and Morocco



Meryem Zoubir
Senior Lawyer
CWA Morocco
Morocco

- Challenges of implementing the AfCFTA:
 - Trade costs.
 - Inequalities between costs and benefits resulting from the differences between member countries in terms of economic growth and competitiveness.
 - Decision making process in some regimes.
 - Infrastructures (material and non material ones).
 - The pandemic has sent shock waves through supply chains, shipping networks and ports, causing freight volumes to drop and jeopardizing growth prospects. Although Tangier Med Port's geographic position (and largest port in Africa) had allowed it to operate in a rather stable manner, predicting the long-term impact of the pandemic as well as the date and extent of the sector's recovery is very uncertain.



JUMOKE LAMBO

Nigeria

jumoke.lambo@uubo.org



The AfCFTA and Nigeria

- 7th July 2019 – Nigeria signed the AfCTA Agreement.
- 5th December 2020 – Nigeria deposited its instrument of ratification after the Federal Executive Council ratified the Agreement.
- Nigeria is yet to domesticate this Agreement and this is a requirement for the implementation of the Agreement.
- **Section 12 of the 1999 Constitution of the Federal Republic of Nigeria** - No treaty between Nigeria and any other country shall have the force of law except such treaty has been enacted into law by the National Assembly, Nigeria's legislature.



The AfCFTA and Nigeria



Jumoke Lambo
Partner
Udo Udoma & Belo-Osagie
Nigeria

- **Nigeria's membership of ECOWAS and CEN-SAD:** Nigeria is a member of Economic Community of West African State (ECOWAS) and Community of Sahel- Saharan States (CEN-SAD). The goals of these regional economic communities is to achieve economic unity through implementation of the free movement of people and goods in order to make member states free trade areas. AfCFTA provides for a wider market with similar goals.
- **Advantages of AfCFTA to Nigeria:** growth of small and medium scale enterprises with more dynamism in the market to grow beyond the Nigerian domestic market into a regional one, reduction in unemployment rates, no monopoly of industries, industrialisation, penetration into more markets than those already accessible by virtue of Nigeria's membership of ECOWAS and Community of Sahel-Saharan States (CEN-SAD)
- **Concerns with the Agreement for Nigeria:** Unfair trade practices like dumping, local policies which are against the spirit of the Agreement, including prohibition of up to 26 goods from being imported into Nigeria and Central Bank of Nigeria denial of foreign exchange at official market rates to importers of over 40 other goods, Inadequacy of labour protection laws, backlash from the labour unions

The AfCFTA and Nigeria



Jumoke Lambo
Partner
Udo Udoma & Belo-Osagie
Nigeria

- **Free entry into Nigeria for 90 (ninety) days** - Nigeria recognises the rights of residence and establishment of ECOWAS nationals. ECOWAS citizens are granted free entry into Nigeria for 90 (ninety) days.
- **Work permits and valid visas** - Non-ECOWAS nationals cannot seek employment without a valid visa or residence card i.e., CERPAC. They need to obtain valid visas and work permits to be able to reside, work or take up employment in Nigeria.
- **Recognition of Foreign Qualification:** Foreign qualifications are generally recognized subject to the field of study and the sector where such foreign qualifications is sought to be used.



LENJA DAHMS-JANSEN

South Africa

lenja.dahms-jansen@bowmanslaw.com



The AfCFTA and South Africa

- African Union's **Agenda 2063**: The African We Want.
- **1 July 2018** - AfCFTA Agreement signed by South Africa.
- **10 February 2019** - instrument of ratification deposited by South Africa.
- Member of the **Southern African Customs Union (SACU)** along with Botswana, Lesotho, Namibia, and Swaziland-
 - Tariff offer, rules of origin, general notes to Schedule 1 of the Customs and Excise Act 1964, AfCFTA preferential tariff column incorporated into South Africa's tariff book. (*Government Gazette* No. 44049, No.1429/1431/1433/1434, 31 December 2020.)
 - Botswana has not ratified the AfCFTA Agreement, therefore delay.
 - Customs arrangements in place, but unclear when trading under the Agreement will start.



The AfCFTA and South Africa



Lenja Dahms-Jansen
Partner
Bowmans
South Africa

- **Regional Economic Communities (RECs)** – Member of the **Southern African Development Community (SADC)** along with 15 other African countries-
 - AfCFTA Agreement recognises RECs as the building blocks for the AfCFTA.
 - Intra-REC trade governed by relevant REC Free Trade Agreements.
 - Concessions from AfCFTA negotiations apply to parties with don't have preferential arrangements between them.
- **COMESA-EAC-SADC Tripartite Free Trade Area Agreement** to be ratified and come into force to serve as a building block for implementation of the AfCFTA.
- **Trade in services under the AfCFTA** – South Africa has submitted its initial offer in relation to the priority sectors i.e. communication services, tourism services, professional services, computer services, financial services and transport services. Certain SACU and SADC member offers outstanding.
- **20 May 2021-** Department of Trade, Industry and Competition's "*Trade Policy for Industrial Development and Employment Growth*" makes specific reference to the emerging opportunities arising from the AfCFTA. Focus on industrialisation above tariffs and tariff barriers.

The AfCFTA and South Africa



Lenja Dahms-Jansen
Partner
Bowmans
South Africa

- Generally, the **South African visa system** does not draw a distinction between workers from neighbouring states and those from anywhere else.
 - The visa waiver system only applies to tourism (trade missions) and business visits (conferences, training workshops, exploring business opportunities) and not to working.
 - The holder of a visitor visa is not allowed to work in South Africa unless expressly authorised by the Department of Home Affairs.
- **National Qualifications Framework Act, 2008** – South African Qualifications Authority responsible for evaluating and recognising foreign qualifications.
- Foreign qualification recognition also occurs on a professional level.
- No specific harmonization of South Africa’s social security system with that of third-party African countries.
- **SADC’s Common Position** on the negotiations of the Protocol relating to the Free Movement of Persons, Rights of Residence, and Rights of Establishment, **November 2017**.

Questions?



Thank You!

M O D E R A T O R



Nuno Gouveia
Partner
Miranda Alliance
Angola, Gabon, Guinea-Bissau &
Mozambique



Adail Cardoso
Managing Associate
Fátima Freitas
Angola



Rosa Nduati-Mutero
Partner
Anjarwalla & Khanna LLP
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Lenja Dahms-Jansen
Partner
Bowmans
South Africa





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Nuno Gouveia

Presenter



Adail Cardoso

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