



**Revolutionizing Market Access for
FMCG Companies across Africa:
A Keen Look at the African Continental
Free Trade Agreement (AfCFTA)**



Introduction

In 2017, the United Nations Conference on Trade and Development (UNCTAD) released statistics that showed that the share of total exports from intra-African countries was 16.6%; for context, shares from Europe were 68.1%. This low percentage showed the need for new measures to expand intra-continental trade in Africa.

In 2019, the African Union adopted the African Continental Free Trade Agreement ('AfCFTA' or 'the Agreement') and trading under the

Agreement commenced on 1st January 2021. Fifty-four African countries are now signatories to the Agreement, and forty-eight countries have ratified it. Given this, the AfCFTA is the largest Free Trade Agreement in the world, with its goal targeted at making Africa a coherent, industrialised, contemporary, and powerful force in the world arena.

¹ Topend Sport, 'Top-10 List of the World's Most Popular Sports', <https://ipv6.topendsports.com/world/lists/popular-sport/fans.htm>. Accessed on 17th October, 2024.

Significance of the AfCFTA for African Economies and Industries

While African Governments have historically built trade barriers to protect their markets from regional competition, the AfCFTA engenders the free flow of products and services throughout the continent. With a single and liberalised market for goods, services, investments, and intellectual property rights, the Agreement promotes commerce and value-added production in Africa by establishing regional value chains.

If fully implemented, the AfCFTA will significantly boost economic development in Africa.¹ The World

Bank estimates that the AfCFTA could increase Africa-wide real income by 7% and potentially lift thirty (30) million people out of extreme poverty by 2035. Likewise, trade facilitation measures that cut red tape and simplify customs procedures would drive \$292 billion of the \$450 billion in potential income gains.²

The AfCFTA strengthens the capacities of African companies to access and supply world markets and potentially boost Africa's economic and commercial diplomacy.³

Opportunities for FMCG Companies under the AfCFTA

1. Potential Market Expansion Opportunities

The FMCG sector in Africa has considerable growth potential. In Sub-Saharan Africa (SSA), where poverty levels remain high, consumer spending is primarily focused on food and essential items. However, middle-class customers have the demonstrated purchasing ability to seek out and demand high-end everyday goods. In addition to the rapid growth in digital infrastructure and the introduction of AfCFTA, Africa offers a viable opportunity for the

expansion of the FMCG sector in Africa.

2. Reduction of Trade Barriers and Tariffs

By reducing tariffs amongst member nations, AfCFTA eases intra-continental trade and lowers costs which allows FMCG Companies to sell their products at competitive prices. As FMCG Companies usually operate at a low-profit margin, any reduction in operational and distribution costs will have a massive impact on the bottom line.

¹ Ibid.

² World Bank, 'The African Continental Free Trade Area' (World Bank, 27 July 2020) <<https://www.worldbank.org/en/topic/trade/publication/the-african-continental-free-trade-area>> accessed 21 September 2024.

³ African Union, 'Operational Phase Of The African Continental Free Trade Area Launched' (African Union, 21 September 2024) <<https://au.int/en/articles/operational-phase-african-continental-free-trade-area-launched>> accessed 21 September 2024.

3. Streamlined Customs Procedures and Regulatory Harmonization

The AfCFTA seeks to simplify and harmonise customs procedures, reducing the bureaucratic hurdles that FMCG companies face when trading across borders.⁴ Once implemented, this will lead to faster clearance times and reduced administrative costs. The AfCFTA will allow FMCG firms can navigate various markets with guaranteed compliance with differing requirements.

4. Enhanced Supply Chain Efficiencies

Greater regional integration made possible by the AfCFTA allows for more streamlined and effective

supply chains. With the regional economic integration that the Agreement offers, FMCG businesses can benefit from more reliable and efficient supply chains. The AfCFTA also improve cross-border logistics and coordination, this can help FMCG companies by lowering the difficulty and expense of locating raw materials and transporting completed goods.

5. Access to a Larger and More Diverse Consumer Base

The AfCFTA provides FMCG companies with access to a market of over 1.4 billion consumers, which would lead to opportunities for such companies to expand their operations to cater for the large consumer base.

Challenges and Considerations

Notwithstanding the potential of the AfCFTA as a key factor in Africa's industrialisation, economic expansion, and sustainable development, the AfCFTA, in its pilot stages is not short of several significant challenges and concerns which are not limited to the under-listed.

1. Regulatory and Compliance Challenges

The AfCFTA regulates investment and commerce throughout the African Continent through a complicated legislative framework that includes numerous agreements, protocols, and annexes.⁵ Also, each of the AfCFTA's member nations has unique legal and regulatory requirements, which might differ from the other. These non-uniform

rules may create bottlenecks and delays in trade. Therefore, comprehending and manoeuvring through these complex legal and regulatory frameworks is essential to guarantee adherence and maximise its prospects.

2. Variations in National Implementation and Enforcement

According to Article 5 of the Agreement, variable geometry is one of the governing principles of AfCFTA meaning that Member States have the flexibility and autonomy to determine the speed of integration or fulfilment of the Agreement in their State. The implementation of variable geometry within the AfCFTA remains

⁴ Market Access Map, 'African Continental Free Trade Area (AfCFTA)' <<https://www.macmap.org/en/learn/afcfta>> accessed 16th September 2024.

⁵ Lex Africa, 'African Continental Free Trade Area: Legal Challenges and Opportunities for International Corporations' (Lex Africa, March 2024) <<https://lexafrica.com/2024/03/afcfta-legal-challenges-and-opportunities/>> accessed 21st September 2024.

uncertain and this lack of clarity could hinder progress unless addressed explicitly in the decision-making framework.⁶ Therefore, it becomes imperative for Member States to produce a more effective method to implement the Agreement.

3. Infrastructure and Logistic Constraints

The AfCFTA presents significant opportunities for the FMCG sector, but infrastructure and logistic constraints pose considerable challenges to realising its full potential.⁷ Poor road, rail, and port infrastructure across many African countries make it difficult for FMCG companies to efficiently move goods across borders. Weak transport links result in delays, increased costs, and potential product spoilage, especially for perishable goods. For FMCG companies, operational expenses are increased by the unreliability of electricity and energy infrastructure in several African countries. Frequent power interruptions cause problems for cold storage, production, and product distribution.

4. Competition and Market Saturation Issues

With the removal of tariffs, large FMCG firms may dominate smaller local players, leading to concerns over market monopolisation. This means that large multinational

FMCG companies will expand their presence across African markets, leveraging their economies of scale, advanced supply chains, and marketing power. This could saturate local markets, making it harder for smaller, local players to compete.

5. Insecurity and Civil Unrest

While the AfCFTA aims to significantly improve intra-African trade, Africa is still plagued by civil unrest and insecurity across several African countries, which negatively affects trade. Insecurity in Nigeria, armed conflicts in Libya, intercommunal clashes in South Sudan and coups in Niger, Burkina Faso, Guinea, and Mali have severely undermined the implementation of AfCFTA. Insecurity and civil unrest disrupt the supply of raw materials, and transportation of goods and services, and reduce market accessibility. To effectively implement AfCFTA, African nations desperately need to resolve these issues swiftly.

⁶ Sewagegnehu Dagne, 'Variable Geometry of African integration and AfCFTA' (Afronomics, June 2019) <<https://www.afronomicslaw.org/2019/06/28/variable-geometry-of-african-integration-and-afcfta>> accessed 21st September 2024.
⁷ Brickstone, 'AfCFTA's Potential Solutions in Solving Africa's Logistics Challenges' (Brickstone, 15th June 2023) <<https://brickstone.africa/afcftas-potential-solutions-in-solving-africas-logistics-challenges/>>

Strategic Approach for FMCG Companies to Maximise Opportunities under AfCFTA

FMCG companies can maximise opportunities under AfCFTA through:

1. Adaptation of Business Models under AfCFTA

FMCG Companies should align their business models with the AfCFTA framework to benefit from economies of scale, streamlined supply chains, and enhanced market access by establishing manufacturing facilities within key African markets, as this will reduce import costs, mitigate supply chain disruptions, and cater to local consumer preferences more effectively.

2. Development of Strategies for Market Entry and Expansion

An understanding of local consumer preferences, regulatory environments, and competitive landscapes will help FMCG companies tailor their products to meet the specific needs of each market. Likewise, maintaining a strong relationship with various local stakeholders in African countries, which includes, suppliers, retailers, and regulatory bodies is a viable strategy for sustainable growth and market presence.⁸

3. Optimizing Distribution and Supply Chain Management

FMCG companies can optimise the

intra-African supply chain in distributing across African countries. Effective supply chain management can be achieved through implementing advanced technologies such as automation and data analytics, to help in forecasting demand, managing inventory, and optimizing logistics.

4. Navigating the Regulatory Environment and Ensuring Compliance

Understanding the regulatory framework created by AfCFTA helps mitigate risks associated with non-compliance, such as legal penalties, product recalls, and reputational damage.⁹ Compliance with the regulations aside from safeguarding companies from potential risks, also enhances their competitive advantage in the global market.

⁸ 'The FMCG Leaders Guide to Route to Market Strategy & Execution in 20 Steps' <https://supplychain.enchange.com/the-fmcg-leaders-guide-to-route-to-market-strategy-execution-in-20-steps> Dated 19th September 2018 Accessed on the 23rd of September 2024.

⁹ Navigating the complexities of supply chain regulations in the FMCG industry <https://incit.org/en/thought-leadership/navigating-the-complexities-of-supply-chain-regulations-in-the-fmcg-industry/> dated 28th February 2024, accessed on the 23rd of September 2024.

Optimising Opportunities for FMCG Companies under the AfCFTA Agreement: the Role of Legal Practitioners

Sound legal representation of FMCG companies by legal practitioners who possess a unique understanding of the FMCG landscape is indispensable in navigating the following complexities:

1. Legal and Regulatory Compliance

Legal practitioners ensure companies compliance with regulations and legislations on trade and competition in various African countries, and interpret complex legal provisions related to Rules of Origin, tariff schedules, dispute settlement mechanisms, and customs procedures;

2. Structuring Cross-border Transactions

Legal practitioners can structure cross-border transactions involving FMCG companies to optimise tax advantages and reduce legal risks through drafting and reviewing contracts to align same with the AfCFTA Rules;

3. Dispute Resolution and Arbitration

Article 20 of AfCFTA allows for Arbitration and Legal Recourse to the Dispute Settlement Body, which makes room for Arbitration lawyers to represent and guide companies through this process;

4. Intellectual Property (IP) Protection

FMCG companies would benefit

from the services of cross-border legal practitioners who register and enforce IP rights across multiple African jurisdictions, prepare licensing agreements for IP commercialisation in other AfCFTA member countries, particularly where a company opts to use an import-only model or a franchising agreement;

5. Customs and Trade Facilitation

Customs procedures and regulations are usually tedious and would require sound guidance from knowledgeable legal practitioners to allow for smoother movement of goods and services;

6. Financing Options and Risk Management

Companies can be guided through viable financing options and practicable risk management strategies by experience legal practitioners who under the AfCFTA Agreement in order to keep optimizing profits amidst regulatory changes, currency volatility, and sovereign risks.

The above and more are obtainable in Stren & Blan Partners a cross-border law firm that provides pan-African legal solutions to businesses across Africa.

¹ Ibid.

² World Bank, 'The African Continental Free Trade Area' (World Bank, 27 July 2020) <<https://www.worldbank.org/en/topic/trade/publication/the-african-continental-free-trade-area>> accessed 21 September 2024.

³ African Union, 'Operational Phase Of The African Continental Free Trade Area Launched' (African Union, 21 September 2024) <<https://au.int/en/articles/operational-phase-african-continental-free-trade-area-launched>> accessed 21 September 2024.

Success of FMCG Companies under the AfCFTA

On 4th January 2021, Kasapreko PLC became the first company to trade under the AfCFTA Agreement by airfreighting a container of Alomo Bitters from Ghana to South Africa, saving about 90% in tariffs. Similarly, Ghandour Cosmetics Limited also exported a container of cosmetics products to Guinea in 2021 under the Guided Trade Initiative (GTI) launched on 7th October 2022.

The GTI earmarked certain products including ceramic tiles, batteries, tea, coffee, processed meat products, corn starch, sugar, pasta, glucose syrup, dried fruits etc. It included Cameroon, Egypt, Ghana, Kenya,

Mauritius, Rwanda, Tanzania, and Tunisia, representing the five regions in Africa. As of 2023, Ghana had about forty (40) trades across member States, Kenya had about fifty, and Egypt and Mauritius had about 20 and 25 trades, respectively.

The success stories above only create room for further growth. With the proper implementation of the entire agreements contained in the AfCFTA, the percentage of intra-African trades will increase exponentially, with FMCG companies poised to take the most advantage of the Agreement.

Conclusion

The FMCG Sector is set to grow exponentially in Africa if it can harness the opportunities offered by AfCFTA. With the acceleration of digital transformation, companies can optimise their supply chains and distribution networks across Africa. Likewise, these technologies will provide valuable insights into consumer behaviour and market trends.

Furthermore, digital platforms will facilitate cross-border trade by simplifying regulatory compliance and improving transparency, further boosting the growth of the FMCG market under AfCFTA.¹⁰ Policy developments under AfCFTA in

areas such as environmental standards and consumer protection will lead to increased competition offering an opportunity for FMCG companies to scale their operations and reach new consumer bases across the continent.¹¹

Therefore, it is pertinent that FMCG companies leverage the services of legal practitioners in tapping into this export power and channel their energy mostly into the production of products that are in high demand in Africa so that they will be able to maximise the cost-controlled supply chain system under AfCFTA.

¹⁰ 'State of the Nation 2023 of the FMCG Industry in Kenya and Nigeria' overview/ dated 13th March 2024, accessed on the 23rd of September 2024.

¹¹ 'Market Polarisation: The Implications for FMCG Companies' <https://kpmg.com/ng/en/home/insights/2024/08/market-polarisation-the-implications-for-fmcg-companies.html> August 2024

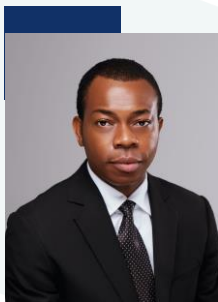
<https://nielseniq.com/global/en/insights/analysis/2024/nigeria-state-of-the-nation-2023-overview/>

About Stren & Blan Partners

Stren & Blan Partners is an innovative and dynamic Law Firm with a compelling blend of experienced lawyers and energetic talents. We are focused on providing solutions to our client's business problems and adding value to their businesses and commercial endeavours. This underpins our ethos as everything we do flows from these underlying principles.

Stren & Blan Partners is a full-service commercial Law Firm that provides legal services to diverse local and multinational corporations. We have developed a clear vision for anticipating our client's business needs and surpassing their expectations, and we do this with an uncompromising commitment to Client service and legal excellence.

The Authors



**Marvis
Oduogu**

Team Lead

MarvisOduogu@strenandblan.com



**Chibudike
Anene**

Associate

ChibudikeAnene@strenandblan.com



**Cynthia
Ekeka**

Associate

CynthiaEkeka@strenandblan.com



**David
Olajide**

Associate

DavidOlajide@strenandblan.com

Stren & Blan Partners

+234 (0)702 558 0053
3 Theophilus Orji Street,
Off Fola Osibo Road, Lekki Phase 1,
Lagos, Nigeria

www.strenandblan.com
contact@strenandblan.com
[@strenandblan](https://www.instagram.com/strenandblan)

