

## 7. Food security in the African Continental Free Trade Area legal framework

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The AfCFTA is expected to play a catalysing role in bringing about more intra-African agriculture and food trade. But, as we saw from the findings of the partial equilibrium modelling exercise in Chapter 6, its overall impact on intra-African food trade is projected to be modest. While the AfCFTA legal instruments contain only minimal references to food security, implementation of provisions on non-tariff barriers (NTBs) in its annexes and protocols can have a stronger impact on achieving food security outcomes across the continent.<sup>1</sup> As we also saw in Chapter 6, attending to NTBs will bring about substantial gains to intra-African food trade, unlike reductions in tariffs since these are already relatively low, thanks to trade liberalisation within the continent's regional economic communities (RECs).

It is to this end that we review the provisions in the AfCFTA on NTBs. The first part of the chapter highlights where the AfCFTA Agreement, protocols and annexes explicitly refer to food security and agriculture and what these provisions entail. Comparisons are made with the WTO Agreement on Agriculture, which is discussed in Chapter 9. The second part of the chapter turns the spotlight on NTB provisions in the AfCFTA legal instruments. Finally, in line with an underlying theme of this book that considers the intersection between trade, food security and climate, the third part of the chapter considers environmental provisions in the AfCFTA legal framework.

### 7.1 Food security provisions in the African Continental Free Trade Area

Direct references to food security in the African Continental Free Trade Area legal instruments

The AfCFTA legal instruments consist of the Agreement Establishing the African Continental Free Trade Area ('the Agreement') and various protocols,

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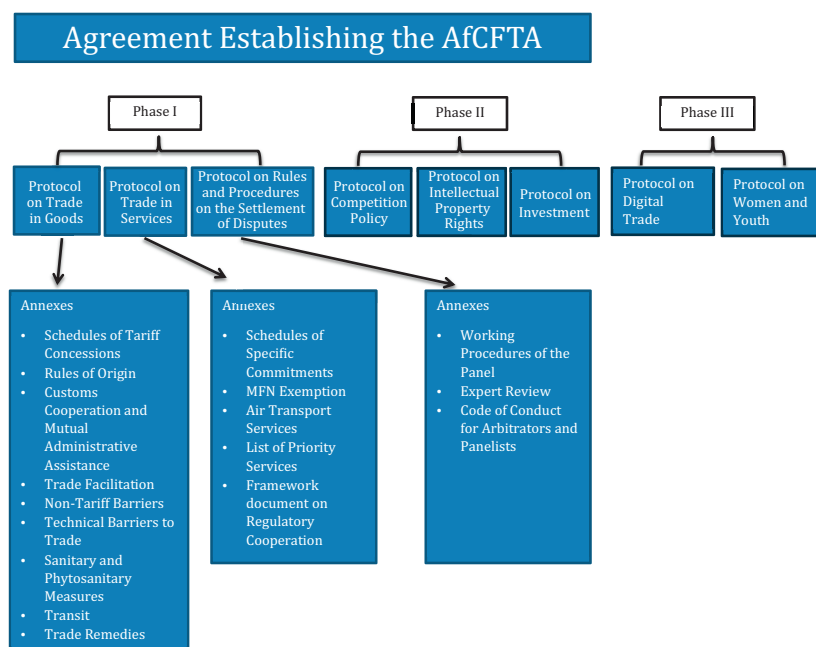
covering trade in goods, services and dispute settlement, as well as competition policy, intellectual property, investment, e-commerce and women and youth (see Box 7.1). The Protocols on Trade in Goods and Trade in Services are accompanied by several annexes, but notably there is no annex dedicated to agriculture or food security. However, the legal instruments that comprise the AfCFTA make various direct – and indirect – references to food security.

The preamble to the Agreement reaffirms the commitment of the member states<sup>2</sup> to the aspirations of Agenda 2063, which includes boosting food security. More substantively, Article 3 (g) of the Agreement specifies that promoting agricultural development and food security is one of the objectives of the AfCFTA (Agreement Establishing the African Continental Free Trade Area, 2018, art 3 (g)). While these references signal that food security is an important objective of the AfCFTA, they do not establish legally binding obligations.

The AfCFTA Protocol on Intellectual Property Rights also contains direct references to food security, without conferring a legal obligation. Article 4, which sets out ‘general guiding principles’, highlights the ‘promotion of the public interest in sectors of vital importance to socio-economic and technological development, including ... agriculture, food security and nutrition’ (Protocol to the Agreement Establishing the African Continental Free Trade Area on Intellectual Property Rights, 2023, art 4). The section that sets out priority areas of cooperation also provides for ‘facilitating the use

### **Box 7.1: Overview of the architecture of the AfCFTA**

The AfCFTA architecture consists of the Agreement and a set of protocols, some accompanied by annexes, adopted in relation to negotiation phases. Phase I (concluded in 2018 and which entered into force in 2019 following ratification by the required number of member states) is made up of the Protocol on Trade in Goods, the Protocol on Trade in Services and the Protocol on Rules and Procedures on the Settlement of Disputes – each of them accompanied by various annexes. At the time of writing, 98 per cent of the negotiations on rules of origin had been completed. Tariff schedules and specific schedules of commitment in services had been completed for almost all member states. Phase II (concluded in 2023 but which has not entered into force, with the required number of ratifications outstanding at the time of writing) consists of Protocols on Competition Policy, Intellectual Property Rights, and Investment. Phase III comprises a Protocol on Digital Trade and a Protocol on Women and Youth (concluded in 2024 but which have also not entered into force, with ratification outstanding at the time of writing). A diagrammatic representation of the AfCFTA’s legal architecture is provided in Figure 7.1.

**Figure 7.1: The AfCFTA's legal framework and phases**

Source: This figure is modified and updated, based on a figure originally published by Tralac in “African Continental Free Trade Area: Questions and Answers.” Available at: <https://www.tralac.org/documents/resources/faqs/2377-african-continental-free-trade-area-faqs-june-2018update/file.html>.

of flexibilities under international instruments for the protection of public health, food security, agriculture and nutrition’ (Protocol to the Agreement Establishing the African Continental Free Trade Area on Intellectual Property Rights, 2023, art 23 (f)). Similar to the references to food security in the Agreement, these provisions signal the important link between food security objectives and the AfCFTA but are not enforceable.

Other provisions have more teeth. For example, the Protocol on Trade in Goods contains stipulations that allow member states to take measures to advance food security that would otherwise be inconsistent with the AfCFTA trade liberalisation objectives. For instance, Article 9 allows member states to introduce quantitative restrictions on imports and exports if needed, incorporating by reference Article XI of the General Agreement on Tariffs and Trade (GATT) (see Chapter 8 on the WTO).

However, and again similar to Article XI of GATT, it exempts ‘export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting party’ (GATT 1947, art XI.2(a)). As is discussed in more detail in Chapter 8, while export restrictions

can temper domestic price increases, they also risk accelerating price spikes that can have a broader destabilising effect on international markets.

Article 26 of the Protocol on Trade in Goods sets out general exceptions, which allows member states, under certain circumstances, to adopt measures that would otherwise be inconsistent with the trade liberalising objectives of the Protocol on Trade in Goods. This includes measures that are ‘essential to the acquisition or distribution of foodstuffs or any other products in general or local short supply’ (Agreement Establishing the African Continental Free Trade Area, Protocol on Trade in Goods, 2018, art 26 (j)). While this exceptions clause mirrors the exceptions clause set out in Article XX(j) of GATT, the emphasis on ‘foodstuffs’ with regard to products in short supply is unique to the AfCFTA. Indeed, Article XX(j) of GATT refers more broadly to products in short supply. Legally, the AfCFTA reference to foodstuffs in the context of products in short supply compared to the lack thereof in Article XX(j) of GATT is mostly insignificant, given that the broader language in Article XX(j) of GATT encompasses foodstuffs. Nevertheless, the direct reference to foodstuffs is significant in that it signals the importance that AfCFTA negotiators gave to food security considerations (Kuhlmann and Dall’Agnola 2023).

Ultimately, the extent to which member states can invoke Article 26 to justify measures that would otherwise be inconsistent with the Protocol on Trade in Goods depends on how an AfCFTA adjudicatory body would approach the issue (van der Ven and Signé 2021). Within the context of the WTO, exceptions have generally been difficult for member states to invoke successfully. In the context of interpreting ‘products in general or local short supply’, WTO adjudicatory bodies have examined the ‘extent to which a particular product is “available” for purchase in a particular geographical area or market, and whether this is sufficient to meet demand in the relevant area or market’ (WTO Appellate Body 2016). In doing so, the Appellate Body stressed not only the importance of looking at the domestic production of a product but also that ‘due regard should be given to various factors, including the total quantity of imports that may be available to meet demand’ (WTO Appellate Body 2016). Should the AfCFTA adjudicatory body adopt a similar interpretation, it would arguably set a high bar to invoking the ‘food security’ exception.

### Agricultural disciplines that are absent in the African Continental Free Trade Area

In addition to identifying what is covered in the AfCFTA legal texts, it is equally important to identify what is not covered. In contrast to many regional trade agreements<sup>3</sup> and the WTO, as shown in Table 7.1, the AfCFTA includes neither a chapter on agriculture nor provisions directly relevant to agricultural production and food security, such as agricultural subsidy disciplines,

**Table 7.1: Overview of agricultural provisions set out in the AfCFTA and the WTO**

	AfCFTA	WTO
Agricultural chapter	✗	✓
Agricultural subsidies	✗	✓
Public stockholding	✗	✓
Special safeguard mechanism <sup>4</sup>	✗	✓

or provisions on public stockholding programmes that governments utilise to purchase, stockpile and distribute food when needed.

While agriculture was considered for inclusion at the AfCFTA drafting stage, it was later dropped given the lack of a compelling reason to have one (Desta 2023). Indeed, adopting disciplines on agricultural subsidies – the main objectives of the WTO Agreement on Agriculture – makes little sense if excessive subsidies are not a key problem. Most African countries lack the fiscal space to significantly subsidise their agricultural production. Indeed, the Agreement on Agriculture is especially concerned with generous amounts of domestic support in large agricultural producers such as China, the United States and the European Union. It aims to discipline these subsidies to curtail market distortions and price fluctuations that can destabilise the global agricultural market. Moreover, 44 out of 54 AfCFTA member states are also WTO members and therefore parties to a more extensive legal framework on agriculture in the WTO. Thus, the decision not to include a WTO-style protocol or annex on agriculture in the AfCFTA seems to have been a sensible one.

However, AfCFTA negotiators could have considered including additional food security provisions focused on enhancing regional cooperation to enhance food security and increase resilience.

This approach has been adopted by some of the RECs.<sup>5</sup> For example, the Treaty Establishing the East African Community (EAC) provides for initiating and maintaining ‘strategic food reserves’. The Revised Treaty Establishing the Common Market for Eastern and Southern Africa (COMESA) and the Economic Community of West African States (ECOWAS) Revised Treaty allow for the conclusion of agreements on food security at the regional level (Treaty for the Establishment of the East African Community, 1999, art 110; Treaty Establishing the Common Market for Eastern and Southern Africa, 2012, art 131; Economic Community of West African States Revised Treaty, 1993, art 25).<sup>6</sup> COMESA also emphasises the importance of cooperation on the management of drought and desertification, whereas the EAC focuses on cooperation regarding the management of irrigation and water catchments, which can positively contribute towards achieving food security within these

regions. Furthermore, COMESA sets out cooperation for the supply of staple foods including through investment, infrastructure provision, prevention of pre- and post-harvest losses, and an early-warning system to assess and supply information regarding food security, among others. The Intergovernmental Authority on Development (IGAD) also cooperates on supporting food security, through conducting research, supporting the development of sustainable agriculture in its member states, collaborating on the management of transboundary water and land governance, taking common measures to deal with transboundary pests (which can harm agricultural production) and supporting market access and policymaking in favour of resilient food systems (IFRAH IGAD Food Security Nutrition and Resilience Analysis Hub n.d.; IGAD 2024; IGAD n.d.).

Going beyond cooperation, the EAC also focuses on developing a mechanism for the exchange of information on demand and supply, surpluses and deficits, forecasting, and state of food nutrition, and to develop modalities to have timely information on market prices (Treaty for the Establishment of the East African Community, 1999, art 110). Moreover, it requires its member states to harmonise quality and standards of inputs and products, including on additives, as well as food supply, nutrition and food security policies and strategies, and to cooperate on the development of marine and inland aquaculture and fish farming (Treaty for the Establishment of the East African Community, 1999, art 110). EAC member states (officially referred to within the bloc as ‘partner states’) are encouraged to adopt good nutritional standards and the popularisation of indigenous foods (Treaty for the Establishment of the East African Community, 1999, art 118).

While many of the food security provisions in the examples provided from COMESA, EAC, ECOWAS and IGAD focus on cooperation and do not contain enforceable legal obligations, they provide insights into the types of food security provisions that the AfCFTA negotiators could have considered to strengthen the direct link between the AfCFTA and the continent’s food security agenda.

Although African countries have continental frameworks for promoting food security (such as CAADP, Agenda 2063 and support for the African Union Commission’s work on African agriculture), these are in some areas not as specific as the aforementioned REC agreements. This is particularly the case regarding the joint management of transboundary issues, such as the management of drought and desertification, water resources and pest control.

In sum, the AfCFTA’s commitments on food security are limited, especially compared to relevant agriculture and food security provisions in the WTO and the RECs. While the absence of a WTO-style agriculture agreement is sensible, it is more difficult to see why REC-style cooperation provisions on food security did not find their way into the AfCFTA. Nonetheless, there are still significant ways in which the strategic implementation of the AfCFTA can prove essential to advancing food security in Africa, as we will see in the next section.

## **7.2 Implementing the African Continental Free Trade Area: removing non-tariff barriers critical for food security**

As already noted, tariffs are generally low except for some peaks, such as in Somalia, where tariffs and other taxes on food are as high as 25 per cent (Mendez-Parra and Ayele 2023). Tariffs on agricultural inputs such as fertilisers and pesticides are also relatively high (Mendez-Parra and Ayele 2023). On the other hand, and as discussed in Chapter 5, results from several studies that model the AfCFTA's expected impact on food security emphasise that the greatest gains will come from tackling NTBs – defined in the AfCFTA as ‘barriers that impede trade through mechanisms other than the imposition of tariffs’ (Agreement Establishing the African Continental Free Trade Area, 2018, art 1(r)).

NTBs cover a diverse set of measures in terms of purpose, legal form and economic effect, and could include food safety regulations, elaborate testing requirements, rules of origin, and inefficient and costly border procedures.<sup>7</sup> By tackling NTBs, the AfCFTA can help galvanise intra-African trade in agri-food products, expand agricultural production, support food processing and value chain development, facilitate access to food, and develop more robust distribution networks. This will have knock-on effects in reducing Africa's relative dependence on food imports, while shielding the continent from severe supply-chain shocks.

This section assesses how the implementation of AfCFTA can reduce NTBs, with a focus on the Sanitary and Phytosanitary (SPS) Annex, the Technical Barriers to Trade (TBT) Annex, and various trade facilitation provisions. The assessment will be complemented in Section 7.3 with an overview of how implementation of some aspects of the Agreement on Trade in Services and the Phase II and Phase III protocols – including the AfCFTA's provisions on investment, digital trade, competition policies and intellectual property rights – will be instrumental to achieving food security in Africa.

### **Sanitary and phytosanitary measures in the African Continental Free Trade Area**

SPS measures are critical for food security and public health. They ensure that minimum standards of safety are upheld, in order to protect human, plant or animal life or health. For example, food safety standards ensure that the food we eat do not contain harmful toxins, while governments and international organisations develop standards and guidelines to prevent spread of animal pests or diseases. At the same time, SPS measures can become significant barriers to trade, given their high compliance costs, which small producers and traders are often not able to meet. Indeed, the Food and Agriculture Organization of the United Nations has noted that domestic food prices in sub-Saharan Africa are 13 per cent higher, on average, as a result of SPS measures (Food and Agriculture Organization of the United Nations n.d.).

Annex 7 of the AfCFTA Agreement on Trade in Goods focuses on SPS measures (AfCFTA SPS Annex). From a food security perspective, four specific provisions set out in the AfCFTA SPS Annex will be particularly important: harmonisation, equivalence, cooperation and technical assistance. Harmonisation addresses the fragmentation of regulatory approaches by requiring member states to base their SPS measures on common standards. The AfCFTA SPS Annex provides that states ‘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 and phytosanitary measures at the regional level’ (Agreement Establishing the African Continental Free Trade Area, 2018, art 8). Mirroring the WTO SPS Agreement, the AfCFTA SPS Annex refers to three international standard-setting bodies: the CODEX Alimentarius, the International Plant Protection Convention (IPPC) and the World Organization for Animal Health (formerly the International Office of Epizootics). Respectively, these organisations establish international rules for the use of toxic pesticides, invasive alien species, and veterinary medicines and animal diseases (Agreement Establishing the African Continental Free Trade Area, 2018, Annex 7, art 8).<sup>8</sup> Requiring AfCFTA member states to use international standards as the basis of their SPS measures reduces the compliance costs that traders face and therefore facilitates more food trade and increases consumer welfare (Mendez-Parra and Ayele 2023). Box 7.2 provides an example of the application of the harmonisation of maize standards in the EAC.

Another example concerns seed regulatory systems. Within the Southern African Development Community (SADC), different approaches to national seed regulation, including with regard to certification and quality control and quarantine measures for seed, made it difficult for seed to be traded within the region. Specifically, for a seed variety to be released in a SADC country, it would have to be tested for at least three seasons in different agro-ecological

### **Box 7.2: Harmonising maize standards in the EAC**

Examples of food safety standards harmonisation can be found at the REC level. For instance, prior to 2005, EAC countries Kenya, Tanzania and Uganda applied different specifications for maize – including with regard to moisture content, aflatoxin levels, foreign matters and insect-damaged grains (see Table 7.2). In 2005, the EAC adopted harmonised standards for maize grains based on the Codex Alimentarius (and, in some cases, going beyond the standards set out in the codex). Doing so significantly facilitated maize trade within the EAC, as countries no longer had to ensure they complied with different SPS standards when trading with different countries.



**Table 7.2: Comparison of maize SPS standards before and after EAC harmonisation and CODEX Alimentarius**

	2003 (before EAC harmonisation)			After harmonisation		Codex Alimentarius (international standard)
	Kenya	Tanzania	Uganda	Grade 1	Grade 2	
Moisture content	13.5%	14%	13%	13.5%	13.5%	15%
Aflatoxin	10 ppb	10 ppb	10 ppb	10 ppb	10 ppb	Set by CODEX Commission
Foreign matter	1%	0.5%	1%	0.5%	1%	1.5%
Insect-damaged grains	3%	1%	2%	1%	2%	7%

Source: Reproduced and modified from John Keyser, Regional Quality Standards for Food Staples in Africa: Harmonization not Always Appropriate. July 2012.  
<https://documents1.worldbank.org/curated/ar/357541468192844868/pdf/728540BRI0Box30onal0Standards0FINAL.pdf>

zones. The adoption of SADC's Harmonized Seed Regulatory System reduces the release procedure time, by allowing for any seed variety already approved in two SADC member states to be freely tradeable throughout the SADC region.<sup>9</sup> This facilitates access to, for instance, higher-yielding or drought-resistant seed varieties for farmers, to boost food production.

An alternative, less demanding approach to harmonisation is the concept of equivalence, which requires that an importing party accepts the SPS standards of another member state as equivalent to its own if the exporting party objectively demonstrates that the standards achieve the same level of SPS protection as the importing party – even if the requirements are not identical. For example, an importing country could consider equivalent an exporting country's approach to certifying organic agricultural products – allowing the product to be labelled in accordance with its own standards.<sup>10</sup>

Mirroring the WTO SPS Agreement, Article 7 of the AfCFTA SPS Annex requires that an importing party shall accept SPS measures of the exporting party as equivalent to its own if such equivalence can be objectively demonstrated. To advance food security within the African continent, it is recommended that the AfCFTA member states implement these provisions, including for food labelling, food safety practices and seed variety testing. The effective implementation of regionalisation provisions (Article 6) could also facilitate food security, given that, in the situation of a disease-outbreak, they allow for trade to continue from the country's disease-free zones.

A prerequisite to many of the provisions set out in the AfCFTA SPS Annex is that member states have in place a functioning SPS system. In many African

countries, the SPS system is significantly underdeveloped. Member states should invest in and upgrade their SPS systems, including by taking advantage of the cooperation and technical assistance opportunities (Agreement Establishing the African Continental Free Trade Area, 2018, art 14), which include information sharing, developing and harmonising SPS measures at regional and continental level, developing infrastructure of testing laboratories, and developing centres of excellence could have significant gains to food security (Chinyamakobvu 2020).<sup>11</sup> Upgrading SPS systems will be critical to respond to environmental threats to crop production, including through pest disease outbreaks, which are expected to become more acute as a result of climate change.

The AfCFTA further contains various provisions that seek to streamline audit and verification (Article 9) as well as border check procedures related to import or export inspections and fees (Article 10), to ensure they are not more trade restrictive than necessary. These provisions can facilitate intra-African trade in food products, and are particularly important for agricultural and perishable goods, given their vulnerability to trade disruptions (Mendez-Parra and Ayele 2023). Other provisions of importance are those that seek to enhance transparency and the exchange of information (Article 11) and those that seek to ensure that traders have information as to the regulatory requirements.

Some progress has been made to harmonise food safety standards through the RECs, and to some extent across RECs through the African Organization for Standardisation (ARSO), of which 42 African countries are members. However, there is more to do to harmonise them at the continental level. This is where there is opportunity for effective implementation of AfCFTA SPS provisions (ARSO n.d.; Diop n.d., p.3; Economic Commission for Africa 2020, p.2).

### Technical barriers to trade in the African Continental Free Trade Area

Similar to SPS measures, technical regulations and conformity assessment procedures can play a critical role in advancing legitimate policy objectives. At the same time, they have the potential to obstruct trade, including in agri-food products critical for food security. While technical regulations encompass most SPS measures, they are broader in scope and include regulations that go beyond protecting animal, plant or human life or health, and establish norms for packaging, technological specifications, labelling standards, the regulation of hazardous waste, and related issues. With regard to food security specifically, TBT standards can impact, for example, the way in which fish is caught, animals are treated, food is labelled, and what kind of technology is used in agricultural production.

Also, in line with the SPS Annex, the AfCFTA TBT provisions can facilitate intra-African trade in agri-food products by reducing the heterogeneity

of technical and regulations and standards, which often create significant compliance burden and costs for exporters.<sup>12</sup> Annex 6 of the AfCFTA covers Technical Barriers to Trade. The Annex, which is based on the WTO TBT Agreement, aims to reduce NTBs by encouraging (1) cooperation in standards-setting, technical regulations, conformity assessments, accreditation and metrology; (2) the elimination of unnecessary and unjustifiable technical barriers to trade (Article 4); and (3) the promotion of mutual recognition of results in conformity assessments.<sup>13</sup> Similar to the AfCFTA SPS Annex, the implementation of these provisions could facilitate intra-African trade, including by streamlining standards and certification regarding warehouse storage, production, waste management, technology use, and other areas with implications for food security, impacting the quality, availability and affordability of food products.<sup>14</sup> In particular, the development of regional standards under ARSO and the AfCFTA Secretariat in areas relevant to the food supply chain could have important benefits to facilitating intra-African trade in agri-food products, as can the application of good regulatory practices (Article 7), transparency provisions (Article 11) and technical assistance and capacity-building (Article 12). A 2020 study by Economic Commission for Africa found that harmonisation of standards through the AfCFTA had potential to promote intra-African trade agri-food products and proposed a list of commodities for which this could be prioritised (Economic Commission for Africa 2020).

### Trade facilitation in the African Continental Free Trade Area

Onerous document requirements and long export and import times are often a significant hindrance to trade across borders (Valensisi and Bacrot 2019). The following NTBs to trade are routinely experienced at many African borders: a lack of transparency in the rules and regulations, often resulting in discretionary decisions; delays and costs associated with border procedures; excessive bureaucracy; limited and uncoordinated working hours for customs personnel; the application of discriminatory taxes and other charges; cumbersome procedures for verifying containerised goods; and unpredictability in the requirements for product standards. These NTBs hinder intra-African food trade and increase the cost and time spent at borders. The latter can be particularly problematic for food products that are perishable.

Three AfCFTA Annexes to the Protocol on Trade in Goods contain provisions that seek to address high transaction costs of international trade. These are Annex 4 on Trade Facilitation – which is modelled on the 2013 WTO Trade Facilitation Agreement (TFA) – Annex 3 on Customs Cooperation, and Annex 8 on Transit – the latter two go beyond the TFA. These three annexes seek to streamline border crossing procedures, including by establishing a framework for the simplification and harmonisation of national customs legislation. They further require AfCFTA member states

to establish modern data processing systems, use internationally accepted standards for customs automation, and set out provisions for communication and interpretation.

In particular, Annex 4 on Trade Facilitation contains provisions that are relevant to advancing food security objectives. These include publication of border requirements, enquiry points, advanced rulings, pre-arrival processing, transparent duties and charges, risk management, post-clearance audit, expedited shipments, and the exchange of information. It also contains a specific provision on perishable goods, defined as 'goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions' (Agreement Establishing the African Continental Free Trade Area, 2018, Annex 4, art 1). Accordingly, the Trade Facilitation Annex recognises that perishable goods are more vulnerable than non-perishable goods to trade disruptions at international borders. For perishable goods, the Annex requires that AfCFTA member states release these goods within the shortest possible time under normal circumstances, and, exceptionally, outside the business hours of a customs authority (Agreement Establishing the African Continental Free Trade Area, 2018, Annex 4, art 15). It further requires that the member states ensure that perishable goods are given priority when scheduling examinations and that importing states arrange or allow for appropriate storage while perishable goods are being processed at the border.

These provisions in the Trade Facilitation Annex will enable member states to build upon good practices that are already emerging as a result of recent reforms. For instance, trade facilitation provisions at the REC level in the EAC require EAC member states to implement one-stop border posts at their common borders, to prevent dealing with customs at both the exporting country and importing country's border posts. According to a study by ODI, one-stop border posts in East Africa established through the support of TradeMark Africa have reduced total border crossing idle time between 62 per cent and 87 per cent, mainly due to time reductions in customs procedures. The study also found that this improvement in border crossing procedures had a direct impact on food prices: it reduced the price of maize by 9 to 12.3 per cent for maize sourced from Busia on the Uganda–Kenya border and 4.5 to 6.8 per cent for maize sourced from Taveta on the Kenya–Tanzania border. The study found similar results for rice, although with lower gains (Mendez-Parra and Ayele 2023).

In sum, implementing the provisions set out in the SPS, TBT and Trade Facilitation Annexes can play a critical role in achieving food security on the continent. A unique feature of the AfCFTA that can further facilitate the implementation of the AfCFTA NTB chapters is that under Annex 5 on Non-Tariff Barriers the AfCFTA provides for the establishment of a web-based NTB mechanism, which enables member states and economic operators (traders) to file complaints related to NTBs (see Box 7.3). The effective implementation and usage of this complaint mechanism could prove a game-changer to removing

NTBs on the continent. Indeed, specifically for situations involving perishable goods, it requires that, upon request by a member state, a specific complaint must be dealt with within 10 days and that, pending the final resolution, other interim solutions should be considered (Agreement Establishing the African Continental Free Trade Area, 2018, Annex 5, art 2.1.10–11).

### **Box 7.3: The NTB mechanism under the AfCFTA**

Annex 5 of the Agreement Establishing the African Continental Free Trade Area (2018) uniquely provides for the establishment of a web-based NTB mechanism in which both member states and economic operators can file NTB-related complaints. The AfCFTA further requires member states to establish institutions to resolve NTBs through bilateral, pre-litigation dispute resolution. In doing so, it provides an opportunity for businesses located in any of the AfCFTA state parties to report NTBs encountered and set in motion a process for their resolution in a fast and cost-free manner.

Traders experiencing NTBs related to food security can submit complaints through this mechanism. Two web-based mechanisms already exist in Africa, covering four RECs: the Tripartite Free Trade Area (TFTA) NTB mechanism, hosted on [tradebarriers.org](http://tradebarriers.org), and the reporting and monitoring mechanism organized by Borderless Alliance, a private sector organisation in Ghana, hosted on [tradebarrierswa.org](http://tradebarrierswa.org). For a complaint to be submitted, member states must indicate whether the NTB concerns: (1) government measures that are trade and restrictive practices; (2) customs and administrative entry procedures; (3) technical barriers to trade; (4) sanitary and phytosanitary measures; (5) specific limitations; or (6) charges on imports.

Web-based NTB mechanisms are credited with increasing awareness of the challenges posed by NTBs. They provide a useful overview of the types of NTB that businesses in the region consider to be most problematic. NTB mechanisms have also been credited for their quick resolution of a significant percentage of complaints. For instance, the TFTA NTB mechanism resolved 597 complaints out of 663 that were registered. Among registered complaints were an SPS complaint by a Zambian company about having to submit a fumigation certificate for molasses; a TBT complaint by a Tanzanian company that Burundi had changed its labelling requirements after the company had submitted an export application; and a complaint related to specific limitations by Egypt about an import ban in Zimbabwe on soya bean oil packaged in bottles.

Source: [www.tradebarriers.org](http://www.tradebarriers.org); Agreement Establishing the African Continental Free Trade Area (2018), Annex 5.

### 7.3 The role of services, investment, digital trade, competition policy and intellectual property rights

#### Liberalising services and its implications for African food security

The Protocol on Trade in Services sets out principles for enhancing continental market access and service sector liberalisation (Tralac 2020). Some services, including financial, logistics, information and communication technologies, insurance, distribution and transport services, are intrinsically linked to food systems through agricultural production, distribution and trade, and through these channels to food security. Inter-African liberalisation of these services could attract investment and enhance competition with transformative impacts on agricultural production, value chains and food security.

Services negotiations under the AfCFTA follow an opt-in approach, which means that AfCFTA member states are only required to liberalise those services sectors in which they have made specific commitments. Five priority sectors have been adopted for services liberalisation: financial services, transport, communication services, business services, and tourism and travel. Commitments can be made for each of these sectors for different modes of supply, as is elaborated upon in the context of agricultural production and food security in Box 7.4.

#### Box 7.4: Modes of services commitments relevant to agricultural service/food security

Following the WTO General Agreement on Trade in Services, market access commitments in services are scheduled per service 'mode' of supply. Specifically, AfCFTA member states can use four different services modes in their schedules:

- **Mode 1: Cross-border supply**, e.g. a farmer from country A gets crop insurance from a company based in country B.
- **Mode 2: Consumption abroad**, e.g. a consumer from country A travels to country B to access repair services to fix a broken smart technology weather app on a phone.
- **Mode 3: Commercial presence/foreign direct investment**, e.g. an agricultural drip irrigation technology company from country A opens a branch office in country B to install the technological equipment.
- **Mode 4: Presence of natural persons**, e.g. a veterinary official from country A travels to country B to check on a farmer's cattle.

Among the five services that are prioritised, commitments in financial services, communication services and transport will have most impact for African food security. Financial services are integral to the development of the agricultural sector. This includes financial services such as credit, deposits, payment, insurance and risk management services (Chandra and Kinasih 2012). As was seen in Chapter 3, African farmers have very low levels of financial inclusion. Only 17 per cent use a formal financial institution for savings and only 10 per cent for borrowing (Madden 2020). Increasing access to financial services, including through the liberalisation of financial services on the continent, could increase the uptake of financial services utilisation, including in the agricultural sector (Madden 2020). It would similarly be critical to increase the digitisation of agribusiness payments, for which implementing the Protocol on Digital Trade, including provisions on financial technology, discussed in more detail below, will be critical. It is, however, not automatic that the liberalisation of financial services will trickle down to smallholder farmers – as this is not necessarily guaranteed (Dube 2012).

Logistics services, including transport, and information and communication technology are critical to reduce the costs and uncertainty in agricultural trade. A systematic review of the literature published in 2016 found that improving rural road infrastructure leads to higher agricultural production and, as a result, higher incomes (Hine et al. 2016). More recent evidence mostly corroborates these findings.<sup>15</sup> Similarly, studies have found a positive correlation between reforms in distribution services and the transformation of food systems for farmers, increased food security, and decrease in rural poverty (Chandra and Kinasih 2012). Well-functioning logistics services can also shorten supply chains and improve the availability, quality, safety, price and variety of food products.

The liberalisation of services under the AfCFTA can positively impact food security in Africa, given that it will open these sectors to competition making provision of these services more effective. At present, many services sectors on the African continent are underdeveloped, highly regulated, and mostly monopolised by government parastatals, resulting in high costs and inefficiencies (Dube 2012). AfCFTA member states should aspire to make ambitious commitments in these areas, subject to country-specific contexts.

### Leveraging the Protocol on Investment to advance food security

As discussed in Chapter 3, public and private investment in equipment and infrastructure including irrigation systems, storage facilities and the mechanisation of production is far from optimal (Petrack n.d.). According to a study by McKinsey & Company, countries south of the Sahara will require investment of US\$8 billion for improved storage, and US\$65 billion for irrigation, for the continent to achieve its agricultural potential (Goedde, Ooko-Ombaka and Pais 2019). To enhance production efficiencies, farmers require

eight times more fertiliser and six times more quality seeds than current levels (Petrack n.d.). Investment is also required for transport infrastructure and, more generally, for cross-border value chain development (African Union Commission and OECD 2022).

The Protocol on Investment promotes intra-African investments in these and other areas relevant to food security, as it contains provisions to reduce the risks associated with cross-border investment, along with provisions to promote and facilitate investment, while balancing this with sustainability considerations and carve-outs. For instance, the Protocol on Investment includes provisions that protect investors from discriminatory treatment vis-à-vis other African investors (Article 11 on national treatment and Article 13 on most-favoured nation treatment); provisions that provide investors and their investments physical protection and security (Article 16); provisions that protect investors from expropriation (Article 17); and provisions that enable the transfer of profits and other returns from investment (Article 19). For each of these provisions, the Protocol on Investment has crafted exceptions and carve-outs related to sustainability concerns.

In addition, investor protection provisions are balanced with provisions that establish investor obligations, including compliance with national and international law, business ethics, human rights and labour standards, environmental protection, indigenous peoples and local communities; sociopolitical obligations; anti-corruption; corporate social responsibility; and investor liability. These provisions ensure that the investments that fall within the scope of the Protocol on Investment respect basic human rights and sustainability requirements.

Other provisions set out in the Protocol on Investment that could contribute to facilitating intra-African investments, including in agriculture, are those on investment promotion and facilitation (Chidede 2019). With regard to investment promotion, the Protocol on Investment enables member states to adopt incentives to 'encourage preferential markets schemes and specific investors within the region' as well as incentives to provide for technical assistance and technology transfer requirements (Protocol on Investment to the Agreement Establishing the African Continental Free Trade Area, 2023, art 24). At the same time, investment facilitation provisions could address issues such as excessive bureaucracy, lack of transparency about investment-related information, corruption, and lack of coordination of relevant institutions, which are key issues that hinder intra-African investment flows.

In sum, the Protocol on Investment could play a catalytic role in enhancing intra-African investment, including with regard to the agricultural sector. The benefits, however, will not be automatic, and require adopting a proactive and strategic approach to enhancing intra-African investment. In addition, the continent will still rely heavily on investment from outside Africa, especially in areas related to high-yielding seed varieties or mechanisation of agriculture. These investors are not directly covered by the Protocol on Investment



but in some cases covered by bilateral investment treaties between individual African countries and foreign partners.

### Scaling up digital agricultural solutions through the Protocol on Digital Trade

The Protocol on Digital Trade can help to create a digital enabling environment that can boost the uptake of digital technologies that are critical to increasing agricultural yields and enhancing food preservation. For instance, this includes mobile phone applications that can be used to buy and sell seeds and inputs, or that set out early-warning systems regarding weather events; digital technologies that enable up-to-date tracking of commodities that are being transported to markets; access to real-time product prices; automated drip-irrigation technologies; or optimise crop pests/disease mitigation strategies (AUDA-NEPAD African Union Development Agency 2021).

Digital agricultural solutions being used in Africa include the Hello Tractor app, also known as the ‘Uber for tractors’, which enables farmers in 13 countries, including Nigeria, Kenya and Tanzania, to rent tractors and equipment at affordable rates (Bhalla 2021), or DigiFarm in Kenya, which serves as a one-stop shop that enables farmers to bypass middlemen to access low-cost seeds and fertilisers, loans, insurance and so on, and many others. Yet scaling these solutions remains a challenge.

The implementation of the provisions set out in the AfCFTA Protocol on Digital Trade can further facilitate the use of digital solutions for smart agriculture across borders, with positive impacts along the food system’s value chain. In particular, the protocol requires member states to refrain from imposing customs duties on digital products that are transmitted electronically, introduces several trade facilitation provisions, including digital contracts, electronic invoicing, digital payments, and paperless trading and last-mile delivery. It also requires that the member states allow for the cross-border transfer of data (Article 20), including personal data, and to refrain from requiring to use or locate computing facilities in a member’s territory as a condition for engaging in digital trade, both of which will be critical to scaling up smart agricultural solutions and applications. However, this obligation is subject to exceptions, to achieve a legitimate public policy objective or protect essential security interests. Provisions that seek to enhance data innovation, including by collaborating on various data-sharing projects and sharing best practices, could also catalyse digital innovation across the continent, including smart agriculture applications.

Uniquely, Part VI of the Protocol contains provisions relevant to digital trade inclusion, which seeks to promote the inclusion and participation of women, youth, indigenous people and rural and local communities in digital trade. This is also directly relevant to enhancing the uptake of digitalisation in agricultural production in rural areas and as regards agricultural activities

predominantly carried out by women. It also includes provisions directed at the inclusion of micro, small and medium-sized enterprises (MSMEs) by focusing on financing and skills development and provisions that seek to facilitate the adoption, development and collaboration in relation to emerging and advanced technologies. These provisions, if applied strategically vis-à-vis MSMEs active in agriculture and agricultural technologies that can enhance production efficiency, could be critical in facilitating Africa's transition to becoming a food-secure continent.

### Mainstreaming women and youth in trade activities

The provisions in the Protocol on Digital Trade are reinforced in the Protocol on Women and Youth, which aims to enhance intra-African trade participation among women and youth entrepreneurs and business owners by addressing a number of challenges that women have historically faced such as access to trade finance, participation in trade policymaking, support to enhance export capacity, and a range of trade facilitation measures that have been gender-blind.

### Addressing anticompetitive behaviour in food sectors through the Protocol on Competition Policy

Both globally and within the African continent, there is an increasing economic concentration in the production and trading of agriculture and food products (Roberts 2023). While such consolidation enhances vertical and horizontal integration, providing, for instance, farmers with bundles of goods and services across food systems, it also means that large firms can exert market power to raise prices to consumers, while restricting the participation of smaller players (Roberts 2023). A study of maize and soya bean market dynamics in Eastern and Southern Africa identified price fluctuations that can be traced back to excessive mark-up at trader level, government intervention, and poor options with regard to storage and logistics (Roberts 2023). These findings highlighted that smallholder farmers in a subset of East and Southern African countries received unfairly low prices for their maize products, while fish and poultry farmers, who buy soya beans as feed, were not able to compete with imported frozen fish and chicken (Roberts 2023).

The implementation of the AfCFTA Protocol on Competition Policy could play an important role in addressing anticompetitive behaviour in the food sector. While the Protocol on Competition Policy does not directly refer to food security or agriculture, it highlights among its objectives the promotion of economic integration and sustainable development in the AfCFTA market (Article 2). It notes practices such as abuse of dominant position in the market, mergers or acquisitions that restrict or prevent competition, and abuse of economic dependence (Article 5). Importantly, it establishes a continental

authority, with an investigative body, to administer and enforce the provisions set out in the Protocol on Competition Policy, with the ability to impose sanctions where it finds anticompetitive behaviour to exist.

By addressing and sanctioning anticompetitive practices, the Protocol on Competition Policy seeks to ensure that the benefits associated with the creation of the AfCFTA would not be undermined by anticompetitive behaviour, including in the food industry. In practice, the real impact of the Protocol on Competition Policy will depend on (1) whether a member state has a functioning competition authority in place and (2) the extent to which member states will be using the continental authority and investigative body on competition.

### Protections through the Protocol on Intellectual Property Rights

The AfCFTA Protocol on Intellectual Property Rights will apply to all categories of intellectual property right, including plant varieties, geographical indications, genetic resources and traditional knowledge. The protocol can have important implications for food security. As part of its 'guiding principles', it includes the 'promotion of the public interest in sectors of vital importance to socio-economic and technological development including ... agriculture, food security, and nutrition'.<sup>16</sup> Similarly, under the heading 'areas for cooperation' it includes a direct reference to 'the use of flexibilities under international instruments for the protection of food security, agriculture, and nutrition' (Protocol to the Agreement Establishing the African Continental Free Trade Area on Intellectual Property Rights, 2023, art 23).

Various provisions will have particular relevance for agricultural production and food security. Nearly half of all African countries already have an intellectual property system in place for seeds, most of them following the model of the 1991 Convention of the International Union for the Protection of New Varieties of Plants. Article 8 of the AfCFTA Protocol on Intellectual Property Rights on the protection of new plant varieties will put in place a *sui generis* or unique system that includes farmers' rights, plant breeders' rights and rules on access and benefit sharing across the continent. Exactly what this would look like will be further developed as part of an annex that will be added to the protocol. Putting such protections in place can incentivise investment in innovation in the development of new, higher-yielding or drought- and heat-tolerant plant varieties. In developing the annex on the protection of new plant varieties, it would be important to ensure that incentives for investment in new varieties are balanced by adequate access and benefit sharing provisions, to ensure that farmers are not prevented from using new plant varieties.

The AfCFTA further provides protection for geographical indications (GIs), including for agricultural products that are connected to geographic areas, which can enhance food security by preserving and promoting traditional products both in local and international markets. Specifically, the protocol

aims to provide protection of geographical indications and establish a database and information portal of registered geographical indications – with an annex setting out additional obligations to be further developed (Protocol to the Agreement Establishing the African Continental Free Trade Area on Intellectual Property Rights, 2023, art 9). There are a large number of traditional products that can benefit from GI protection, including penja pepper and rooibos tea in South Africa, Casamance honey in Senegal, teff from Ethiopia, Maferinyah pineapple from Guinea, and Bondoukou Kponan yarn from Côte d'Ivoire (African Union n.d.). Including geographical indications in the AfCFTA enhances global recognition of the protected products.

The protocol further includes a provision protecting genetic resources and traditional knowledge. Each provision requires that applications for an intellectual property right that is drawn from genetic resources or traditional knowledge must provide various types of information, including disclosure of source, proof of prior informed consent, and proof of fair and equitable benefit sharing. More generally, the protocol sets out a number of other requirements, and requires that relevant African and international instruments can be used to further develop rules on prior informed consent and so on. Additional obligations will be developed and annexed to the protocol on traditional knowledge, traditional cultural expression, folklore and genetic resources. These provisions could also enhance food security by protecting traditional knowledge, which can enable indigenous communities to benefit economically.

While various intellectual property rights frameworks have already been adopted within the African continent, the benefit of the provisions of the protocol is that it aims to harmonise existing approaches, thereby creating less fragmentation. This will be crucial for developing intra-African value chains. To maximise benefits for agricultural production and food security, it is important that the annexes that are yet to be developed in the area of protection of new plant varieties, GIs, and traditional knowledge, traditional cultural expression, folklore and genetic resources strike the right balance between protecting intellectual property and incentivising much-needed innovation while ensuring fair and affordable access to these innovations – keeping in mind the interests of millions of smallholder farmers in the continent. This will help to ensure a balance between the costs and benefits of intellectual property protections (ECA, AU and AfDB 2017, pp.14–153; ECA, AU and AfDB 2016; United Nations Economic Commission for Africa et al. 2019, pp.103–31).

## **7.4 Environmental provisions in the African Continental Free Trade Area**

As we argue throughout this book, there are strong links between agricultural production and climate change/environmental degradation, with the

former contributing to the latter, and the latter enhancing risks. This section looks at ways in which the AfCFTA legal instruments can help to mitigate these risks.

As we saw earlier in relation to food security, the AfCFTA texts contain only minimal references to the environment. The preamble to the Agreement reaffirms the right of member states to regulate within their territories on climate and sustainable development matters. The preamble to the Protocol on Trade in Services also recognises the right of member states to adopt measures by introducing services regulations to meet legitimate policy objectives, including on sustainable development. However, as noted earlier in the context of food security, preambular citations do not amount to legally binding obligations.

As we also saw in relation to food security, the Protocol on Trade in Goods contains exception clauses for situations where AfCFTA member states parties adopt environmental sustainability measures. Specifically, the protocol provides that, under certain circumstances, member states may adopt environmental sustainability measures that are inconsistent with the Protocol on Trade in Goods, including if these measures are ‘necessary to protect human, animal or plant life or health’ or ‘relat[e] to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption’ (Agreement Establishing the African Continental Free Trade Area, 2018, art 26). Provided certain conditions are met, the adoption of measures that are necessary to protect human, animal or plant life or health could justify violations of provisions in the Protocol on Trade in Goods.

As we have already seen, the Protocol on Intellectual Property Rights contains a few references to the environment. It includes as one of its guiding principles the ‘facilitation of access to clean and efficient energy, as well as promote just and fair energy transition and environmental sustainability’ (Protocol on Investment to the Agreement Establishing the African Continental Free Trade Area, 2023, art 4). It further encourages AfCFTA member states to register marks, patents and industrial designs for environmentally friendly goods and services, designs and innovations.

More notably, the Protocol on Investment stands out for extensive environmental references. For instance, it recognises that an investment’s impact can be a factor to consider in establishing whether, for discrimination purposes, two investments are made in ‘like circumstances’ (Protocol on Investment to the Agreement Establishing the African Continental Free Trade Area, 2023, art 11). It further includes exceptions to violations of national treatment, most-favoured nation and expropriation provisions for regulatory measures designed to protect the environment. The Protocol on Investment goes further to establish minimum standards on the environment, noting that AfCFTA member states must ensure high levels of environmental standards and shall not encourage investments by relaxing compliance with environmental standards (Protocol on Investment to the Agreement Establishing

the African Continental Free Trade Area, 2023, art 22). It requires investors and their investments to respect and protect the environment while carrying out their business activities, including respecting the right to a clean and sustainable environment; complying with the principles of prevention and precaution to anticipate significant harm to the environment; carrying out environmental impact assessments; and mitigating and restoring any environmental harm that companies have caused (Protocol on Investment to the Agreement Establishing the African Continental Free Trade Area, 2023, art 30). The protocol further establishes corporate social responsibility for investors, with various references to environmental protection (Protocol on Investment to the Agreement Establishing the African Continental Free Trade Area, 2023, art 34). These environmental references are extensive compared to other investment agreements.

In sum, except for the Protocol on Investment, the AfCFTA legal framework does not contain prominent provisions on climate and the environment. However, implementation of the SPS and TBT annexes, removing and reducing tariffs and NTBs on environmental goods and services and application of the relevant measures in the Protocols on Investment, Competition Policy, Intellectual Property Rights and Digital Trade can lead to progress on various sustainability matters.<sup>17</sup>

## Summary

Direct references to food security in the AfCFTA legal instruments are limited. Unlike the WTO Agreement on Agriculture, or the food security cooperation approaches adopted in the RECs, the AfCFTA legal texts neither contain elaborate provisions to discipline agricultural subsidies – for good reasons – nor do they contain provisions to enhance cooperation on food security at the continental level. However, the absence of provisions on regional food security modelled after the RECs can be seen as missed opportunity. It is for this reason that some scholars have advocated the need for the development of a Protocol on Food Security.<sup>18</sup>

Despite the limited references to food security in the AfCFTA legal texts, implementation of its protocols and annexes can also have a positive effect on agricultural production, with significant benefits for food security. This is especially the case with AfCFTA provisions that aim to ensure SPS and TBT compliance, promote trade facilitation provisions that seek to streamline border processes, which is critical for perishable goods, and more broadly discipline NTBs. The creation of a web portal where traders and governments can submit complaints about NTBs is an important initiative that could further facilitate the implementation of these provisions. The protocols on services, investment, digital trade, competition policy and intellectual property rights, if implemented effectively, could boost intra-African value chains in agriculture and agribusinesses, enhance efficiency and lower prices.

But none of this will happen automatically. First, it will require that AfCFTA member states proactively apply the measures and start trading under the AfCFTA. Despite the AfCFTA's official launch in January 2021, trading under its legal instruments is, at the time of writing, yet to commence. Here, the Guided Trade Initiative, launched in October 2022, which seeks to kick-start trade under the AfCFTA should quickly transition to comprehensive implementation (Rao 2022).

## Notes

- <sup>1</sup> Although the simulations in Chapter 6 find that the impacts of the AfCFTA on intra-African food trade will be modest, these impacts could be larger in times of food shortages (particularly where these affect some countries more than others). This is because the simulations in Chapter 6 are based on the state of Africa's economies from 2017 to 2019. However, if there were a shortfall of food from other sources, the number of people needing to source food from elsewhere in Africa (and, as a result, the number who would find it more affordable to do so as a result of tariff reductions) could increase. Even though Africa is a net food importer, intra-African trade could still be important for addressing food shortages in a time of crisis if rising prices of foods that Africa consumes made it more attractive for African farmers to supply the continent's food market instead of focusing on exporting elsewhere and/or producing non-food crops.
- <sup>2</sup> This chapter uses the term 'member state(s)' to refer to African Union members that have signed and deposited instruments of ratification for the AfCFTA. For consistency throughout the book, it uses 'member states' even though the official term used is 'State Parties'.
- <sup>3</sup> See, e.g., OECD (2015).
- <sup>4</sup> The AfCFTA does include a global safeguards provision (Article 18 of the Protocol on Trade in Goods), mirroring Article XIX of GATT 1994 and the WTO Agreement on Safeguards. It also includes a preferential safeguards provision (Article 19 of the Protocol on Trade in Goods), which allows state parties to apply safeguard measures in specific situations. These provisions can be used to protect farmers from excessive price volatilities, including agriculture commodities that are included in the AfCFTA member states' tariff schedules. Given that intra-African trade is mainly concentrated within Africa's five main regions, and the fact that African countries rarely resort to using safeguards, it is unlikely that these provisions will be invoked by African countries in the context of agriculture.
- <sup>5</sup> See also Kuhlmann and Dall'Agnola (2023).

- <sup>6</sup> If that means the possibility of member states maintaining regional food reserves, it might raise specific concerns under the WTO disciplines, given that WTO law does not recognise the concept of regional food security.
- <sup>7</sup> While governments may – and should – adopt non-tariff measures to pursue various policy objectives, such as protecting human health and safety, plant and animal health, or environmental concerns, these measures become NTBs where they constitute unjustifiable trade restraints.
- <sup>8</sup> Under the SPS Annex, AfCFTA member states may also introduce higher SPS standards, but these could be subject to a scientific justification or the result of a risk assessment (Agreement Establishing the African Continental Free Trade Area, 2018, Annex 7, art 8).
- <sup>9</sup> Feed the Future (n.d.).
- <sup>10</sup> Japan has adopted this approach vis-à-vis organic agricultural products from the US. See Bellmann and van der Ven (2020).
- <sup>11</sup> See also van der Ven and Signé (2021).
- <sup>12</sup> See also van der Ven and Signé (2021).
- <sup>13</sup> Agreement Establishing the African Continental Free Trade Area (2018, Article 4 and Annex 6).
- <sup>14</sup> Kuhlmann and Dall'Agnola (2023).
- <sup>15</sup> An exception is some evidence from India. Relevant literature published since the systematic review identified by the author through a rapid review includes Anega and Alemu (2023), Asher and Novosad (2020), Berg, Blankespoor and Selod (2019), Gennadevich Bryzhko and Viktorovich Bryzhko (2019), Hine et al. (2019), Nakamura, Bundervoet and Nuru (2020), Saifullah Kamaludin and Mariatul Qibthiyyah (2022), Takada et al. (2021) and World Bank (2023).
- <sup>16</sup> Protocol to the Agreement Establishing the African Continental Free Trade Area on Intellectual Property Rights (2023, Article 4 (d)).
- <sup>17</sup> For further reading, see van der Ven and Signé (2021).
- <sup>18</sup> See Kuhlmann and Dall'Agnola (2023).

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