

# AN INTRODUCTION TO CUSTOMS DUTIES



2021

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# Introduction to Customs

## ***Role of Customs in global trade***

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- Is a source of revenue for states
- Tool for political assertion and sovereign identity
- Protectionist approach in the multilateral trade fora

# ***Legislation and bodies governing Customs***

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- The World Customs Organisation:
  - The Harmonised System
  - WCO Committee Classification Decisions
  
- The World Trade Organisation
  - The General Agreement on Trade and Tariffs (Principles embodied under Article XXIV of the 1994 GATT/WTO Marrakech Agreement) including the Rules of Valuation
  
- The East African Community Customs Management Act (EACCMA)
  
- The East African Customs Community Management Regulations

# *Closer home – An overview of the East African Community*

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- The EAC Treaty
- The EAC Protocol
- The EAC Customs Union
- The EACCMA
- The EACCM Regulations
- The EAC Duty Remission Regulations
- The EAC Rules of Origin



## ***The EAC Treaty***

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- Formally known as “The Treaty for the Establishment of the EAC”
  
- Was concluded on 30th December 1999
  
- Entered into force on 7th July 2000
  
- Relevant Articles
  - Article 75 - Establishment of a Customs Union
  
  - Article 76 - Establishment of a Common Market

## ***The EAC Protocol***

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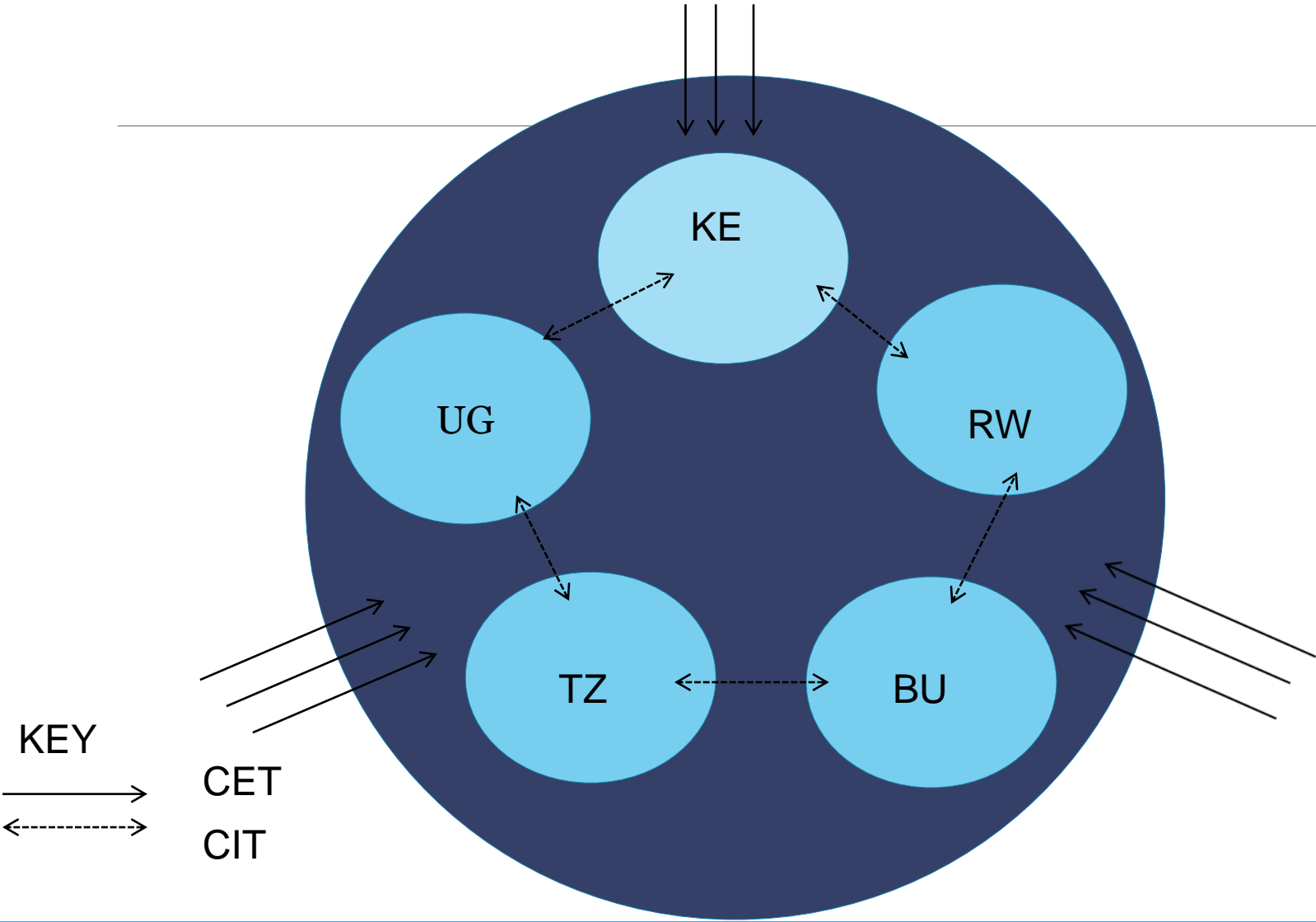
- Concluded and signed in March 2004
- Established the East African Community Common Market
- Provides for the Customs Law of the Community (EACCMA)
- EACCMA was enacted and assented to in December 2004 and effectively came into force on 1st January 2005
- EACCMA Regulations came into force on 1 January 2007

## *The Customs Union*

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- Substitution of a single customs territory for two or more customs territories
- Customs territory is defined as any territory with respect to which separate tariffs or other regulations of commerce are maintained for a substantial part of the trade of such territory with other territories
- The customs territories agree to apply a Common Internal Tariff (CIT) and a Common External Tariff (CET)

# *CET VS. CIT*



## *Progression of trade arrangements*

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Type	CIT	CET	<i>Free movement of capital, labour, services and investment</i>	Common Currency	Political Federation	Example
Free Trade Area (FTA)	Y	N	N	N	N	NAFTA/ COMESA
Customs Union	Y	Y	N	N	N	EAC/ EU
Common Market	Y	Y	Y	N	N	EU
Monetary Union	Y	Y	Y	Y	N	EU
Political Federation	Y	Y	Y	Y	Y	USA/ USSR

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# The importation process

## *The importation process*

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The importation process involves the following parties;

- Export/Consignor – the person exporting the goods, usually the seller
- Importer/Consignee – the person importing the goods into the jurisdiction, usually the buyer
- Clearing & Forwarding Agent – generally acts on behalf of the buyer and liaises with the port and revenue authorities to clear goods and deliver to the buyer.
- Revenue authority – they want their taxes!
- Government agencies at the border/port e.g. port authority, health, standards etc

# *The importation process*

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Proforma invoice

Final invoice from the seller showing the nature of goods being imported, their quantity and their value

Packing list

Bill of Lading issued by a shipper acknowledging receipt of goods for conveyance to an identified person

Airway Bill issued by an courier as evidence of contract for carriage

Road Manifest





# *Import Procedure*

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## *3 Payment of taxes*

The duty payable prior to clearance of goods is as follows:

- Import duty
- Excise duty
- VAT
- IDF and RDL
- Other port charges

## *4 Cargo clearance*

# *Imposition of import duty*

<b>CET rate</b>	<b>Category</b>	<b>Description</b>
0%	Raw materials	Goods not subjected to any form of transformation in production. This category also includes residues, waste and scrap in as far as they are only necessary for recovery of raw materials
	Capital goods	Durable industrial production goods (plant and machinery) and livestock for reproduction (pure bred breeding animals). This category also includes semen, plants for propagation and seeds for sowing
10%	Intermediate goods	Goods that have undergone some degree of transformation. Such goods would require further processing before they are ready for final consumption. This category also includes 'parts' as far as they are identified as such in the HS code
25%	Finished goods	Goods that are ready for consumption
>25%	Sensitive goods	Goods considered of economic importance by governments e.g. sugar, rice, wheat, etc.

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# Trade facilitation and other key areas in Customs

## *The what of Trade Facilitation*

- World Trade Organisation (WTO) definition - The simplification, modernisation and harmonization of export and import processes to reduce the “red tape” that affects supply chains across the globe.
- WTO members concluded negotiations on the landmark Traded Facilitation Agreement (TFA) in 2013. TFA came into force in 2017.



# *The why of Trade Facilitation*

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- The agreement seeks to improve freedom of transit, clarify the fees and the formalities connected with import and export of goods and improve publication and administration of trade regulations.
  
- The TFA is expected to produce other outcomes including:
  - comprehensive publication of import, export and transit information;
  - advance rulings;
  - a proper appeal process for Customs decisions;
  - discipline on Customs penalties amongst others.

# *Is Kenya reaping the fruits of trade facilitation?*

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- Reforms and modernisation initiatives e.g. modernisation and overhaul of revenue Acts.
- Authorised Economic Operator programme
- Clear appeal rules
- Set up of one stop border posts
- Advance rulings???
- Discipline on Customs penalties???
- Ascension of trading blocs:
  - SADC, EAC and COMESA Tripartite Agreement
  - The Africa Continental Free Trade Area

# The African Continental Free Trade Area (AfCFTA)

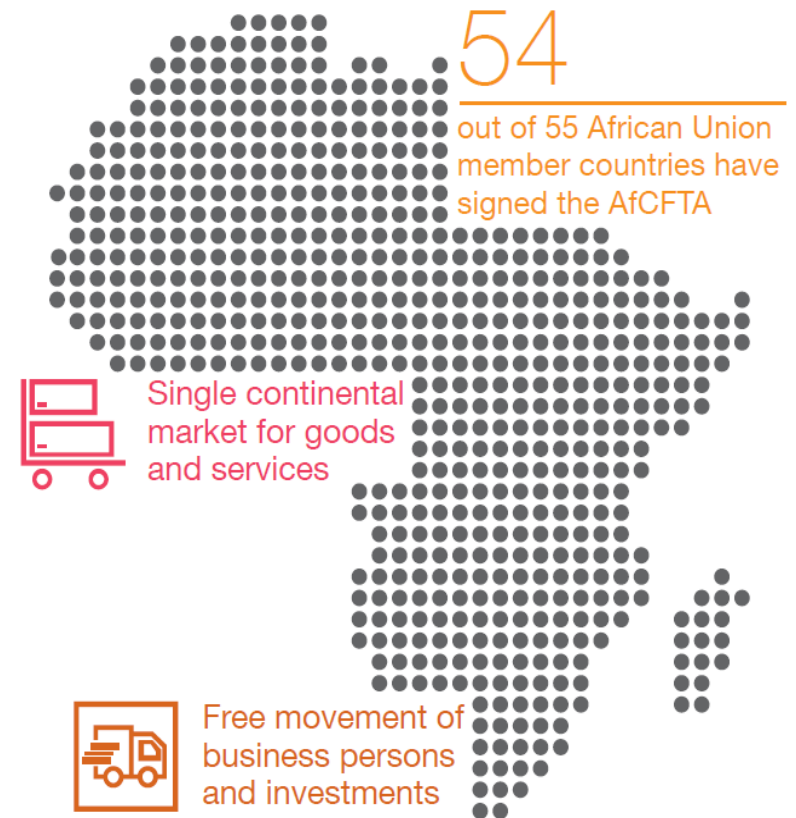
AfCFTA entered into force on 30 May 2019 after obtaining the minimum 22 ratifications required

54 countries have signed the agreement

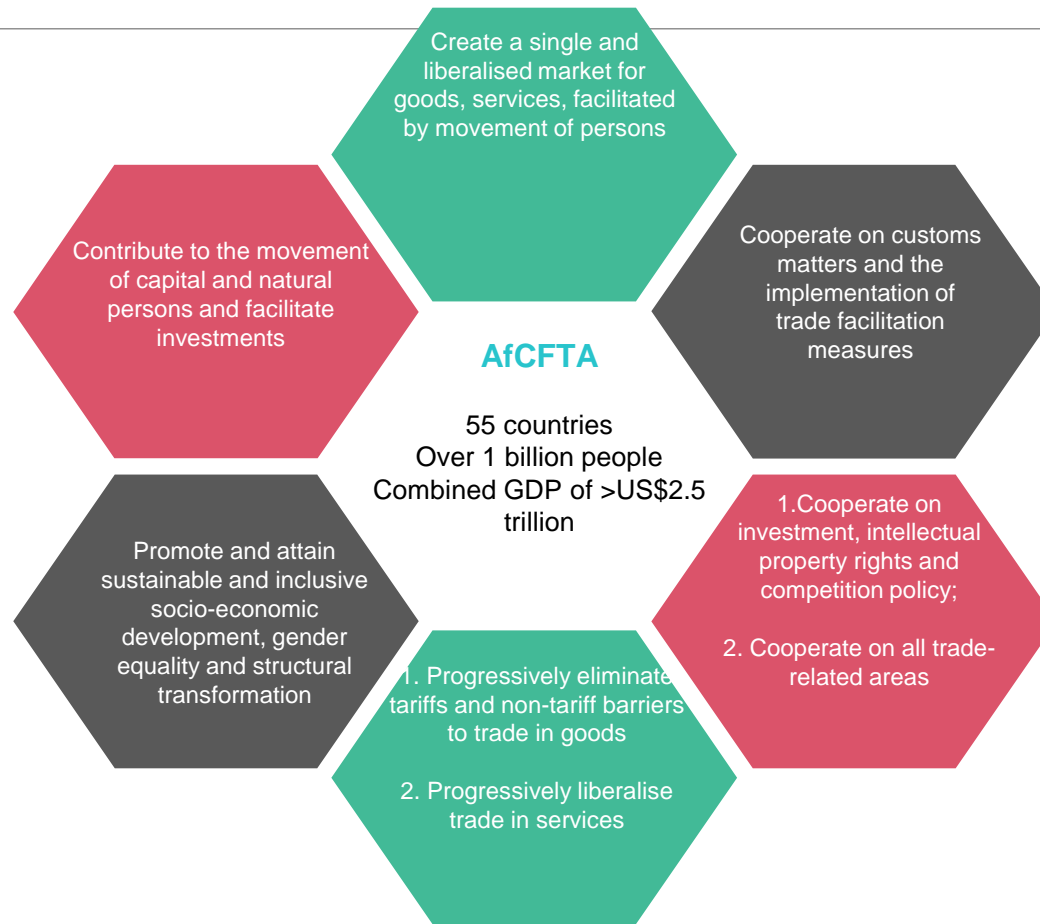
One of the 12 African Union (“AU”) Flagship Projects under AU’s Agenda 2063, aimed at creating the world’s largest free trade zone – due

AfCFTA has been fronted as the forerunner to the establishment of a Continental Customs Union

Under the trade deal, tariffs on 90% of goods will be phased out within 10 years and more for the remaining 10%. This is being done in stages and so could take up to 2035, according to the AfCFTA Secretariat.



# Main objectives of the AfCFTA



# A glimpse at what the future holds..

“An integrated, effective and compliant customs function that drives supply chain efficiency and cost optimization”



**IN THIS WORLD  
NOTHING IS CERTAIN  
BUT DEATH & TAXES**

# *Questions & Answers*

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