1. Introduction

In 2012, the 55 member states of the African Union agreed to establish the African Continental Free Trade Area (AfCFTA) as a way of creating a single continent-wide market for goods and services as well as promoting the movement of capital and natural persons. While this trade agreement does not guarantee trade, it does create incentives for countries within the African continent to trade with one another more and hence its importance cannot be overemphasized. Malawi alongside 44 other countries signed the AfCFTA Agreement on 21st March 2018 in Kigali, Rwanda and this Agreement was expected to enter in force once 22 out of the 55 member states ratified it.

Over the course of the past year of 2019, several positive strides were made towards attaining the goal of making AfCFTA operational. This report therefore gives an update on the progress made under the AfCFTA between January and December 2019.

1.1 Developments made during the period January to June 2019

During the first half of 2019 negotiation meetings of the AfCFTA Negotiating Forum and Technical Working groups were conducted with the aim to conclude outstanding matters from 2018 and also to ensure that the technical support instruments for the Agreement were finalized ahead of the launch of its operationalization in July 2019, in Niamey, Niger. In this period great progress was made with respect to ratifications of the AfCFTA Agreement leading to attainment of 22 ratifications required for its entry into force.

1.2 Ratification of the Agreement and Official Launch of Negotiations

During the period between July to December 2019, the 12th Extraordinary Session of the Assembly was held on 7th July, 2019 in Niamey, Niger and this served as the official launch of the operational phase of the Agreement. At the summit an update of the AfCFTA process for the first half of 2019 was provided. In this the key issues that were highlighted were the main meetings for negotiation and policy structures that took place and the outstanding progress made with respect to
ratifications. By the time of the launch 27 member states had ratified the agreement, well beyond the 22 ratifications required for the agreement to enter into force. It is important to note that as at 31st October, 2019, 2 more countries had deposited their instruments of ratification with the depository making the total to be 29 countries however Malawi was not among the countries that had done so. Malawi is undergoing the process to ratification by obtaining views from various stakeholders the private sector, government, academics, civil society and youth organizations. Some of the issues that are being discussed are: competitiveness of local industries in a much liberalized market, the issue of jobs associated with it and government revenue etc.

In addition several other meetings were held over this period:

- 2 meetings of the Council of Ministers
- 1 meeting for the African Union Ministers of Trade (AMOT)

2. Significant achievements made in 2019

2.1 Launch & Adoption of instruments

One of the significant achievements made during this period was the launch and adoption of the following instruments at the summit in Niger that will power and enable the AfCFTA to become operational:

- Agreed Rules of Origin in Appendix IV to Annex 2 on Rules of Origin;
- Trade in goods password protected online portal
- The African Union Trade Observatory
- The Non-Tariff Barriers Monitoring, Reporting and Elimination Mechanism
- The Pan-African Digital Payments and Settlement Platform.
2.2 AfCFTA Adjustment Facility

Afrexim bank has availed US$ 1 billion line of credit to all African Union Member States to be used to meet adjustment costs related with the implementation of the AfCFTA. In addition, the Bank has availed US$ 2.5 billion for the African private sector who may require funds to scale up operations in the AfCFTA.

Despite the significant progress that was made during this period several key topics still remained under ongoing negotiations and some of which negotiations are still continuing to this day.

3. Topics still under ongoing negotiations

3.1. Annex 1 on Schedules of tariff concessions

As at 31st December, 2019, 11 countries had submitted their tariff offers, but a number of countries and Regional Economic Communities (REC's) were still working on their tariff offers and were at an advanced stage. A recommendation was made at the 10th meeting of the African Union Ministers of Trade (AMOT) to give countries more time to finalize outstanding work on tariff offers and other issues.

3.2. Rules of Origin

Rules of Origin are legal standards supporting the differential treatment of some products based on their country or region of origin. During the second period of the year not much progress was made in regards to this issue. This was mainly due to inadequate funding availed to AfCFTA secretariat. Efforts were being made to engage relevant structures to secure funding for finalization of this work.
3.3. The G-6 reservation

During initial negotiations at the onset of the AfCFTA Agreement, 7 member states were of the view that the adopted modalities were too ambitious for them and hence sought some preferential treatment. After some time Djibouti consented to administer the modalities as agreed. The remaining countries (G-6) namely Ethiopia, Madagascar, Malawi, Sudan, Zambia and Zimbabwe requested an 85% tariff liberalization line instead of the 90% agreed by the rest. A decision at the 2019 summit in Niger was that this should be looked into further and there was hope that consensus would be achieved in February 2020 at the next assembly of the African Union (AU).

3.4. Trade in Services

The road map for finalization of regulation in trade in services was aligned as per the 2019 summit directives. Later it was agreed at the AMOT meeting that by January 2020 schedules of the commitments for priority sectors were to be finalized and that all other outstanding issues were to be finalized by June 2020.

3.5. Status of Signatures and Ratifications

In regards to signatures Eritrea was the only country out of the 55 members which was yet to sign the agreement and the AU was engaging the government of Eritrea on this. While in regards to ratifications as at 31st October, 2019, only 29 countries had submitted their instruments of ratification.

3.6 Phase II Negotiations

It was anticipated that by the end of the year most phase I negotiation issues would draw to a close and that phase II negotiations would commence shortly after. The African Union Commission was currently working on setting up Technical Working Groups for Phase II.
negotiations.

3.7 Collaboration with Regional Economic Communities

With regard to this issue the African union Commission Department of Trade & Industry (DTI) was still working on a framework of collaboration between the African Union Commission (AUC), AfCFTA Secretariat and the Regional Economic Communities (REC's) to facilitate coordination and collaboration between the parties on matters of common interest (trade, investment, infrastructure development and private sector development) and to establish working arrangements. The idea was that once the document was ready it would then be brought before the executive council for endorsement.

3.8 Operationalization of the AfCFTA Secretariat

The Council of Ministers was tasked with the operationalization of the AfCFTA Secretariat. As at December, 2019 several major issues such as drawing up of an organizational structure and budget of the secretariat were yet to be finalized and they still remained work in progress. On the positive side, progress was made on issues such as recruitment of executive posts of the secretariat and a panel was appointed to facilitate the recruitment process. Accra, Ghana was chosen as the home of the secretariat.

4.0 Conclusion and Malawi Private Sector Recommendation

From the issues highlighted above we are able to see that in 2019 though significant progress was made on issues such as adoption of the agreements reached at the summit in Niger as well as steps towards appointment of executive members of the secretariat several important issues still remained far from being agreed. The hope is that most of these issues will have been resolved before the proposed date for the start of trading under AfCFTA which is 1st July, 2020.
Malawi on its part should prepare for its participation at the AfCFTA by ensuring that there is a private sector competitiveness plan to secure Malawi’s offensive commercial interests within the AfCFTA. There are challenges and risks as well as opportunities in the implementation of the AfCFTA and Malawi needs to address some of the supply side constraints such as competitive cost and supply of electricity, access to affordable finance, good access to infrastructure services (For Instance; rail, telecommunications, and good transport network), among others.

There is also need to understand that countries institute non-tariff measures and non-tariff barriers. These frustrate the integration process and Malawi has already been affected by some countries despite existing preferential treatments on border taxes based on regional and bilateral agreements. There is need for Malawi to tread carefully with such countries because Malawi would be flooded by so many products that could potentially kill the domestic industry instead.