ANNEX 8 TRANSIT

Article 1 Definitions

For purposes of this Annex, the following definitions shall apply:

1. “AfCFTA Transit Document" means a Customs Document for transit declaration approved by the Council of Ministers and to be utilized within the AfCFTA;
2. "Carrier" means the person actually transporting transit goods or in charge of or responsible for the operation of the respective means of transport;
3. "Container" means an article of transport equipment (lift-van, moveable tank or other similar structure):
4. fully or partially enclosed to constitute a compartment intended for containing goods;
5. of a permanent character and accordingly strong enough to be suitable for repeated use;
6. specifically designed to facilitate the carriage of goods, by one or more modes of transport, without intermediate reloading;
7. designed for ready handling, particularly when being transferred from one mode of transport to another;
8. designed as to be easy to fill and empty; and
9. having an internal volume of one cubic metre or more;

and shall include the accessories and equipment of the container, appropriate for the type concerned, provided that such accessories and equipment are carried with the container.

It shall not include vehicles, accessories or spare parts of vehicles, or packaging or

pallets.

"Demountable bodies" shall be regarded as containers.

1. “Customs’’ means the Government service responsible for the administration of the Customs Law and the collection of duties and taxes and which also has the

responsibility for the application of other laws and regulations relating to the importation, exportation, movement or storage of goods;

1. “Customs office of departure" means any customs office of a State Party where a transit operation commences;
2. "Customs office of destination" means any Customs office of a State Party where a Customs transit operation is terminated;
3. "Customs office en-route" means any Customs office where goods are imported or exported in the course of a Customs transit operation;
4. "Customs office of entry" means an office of a second or other subsequent State Party where, in relation to that State, the provisions of this Annex begin to apply and includes any Customs office which, even when not situated on the frontier, is the first point of Customs control after crossing the border;
5. “Customs transit” means the Customs procedure under which goods are transported under Customs control from one Customs office to another as defined in Annex A of Istanbul Convention and Specifically Annex E to the Revised Kyoto Convention;

(j) "Customs office of exit" means any Customs office which, even when not situated on the frontier, is the last point of Customs control before crossing the border;

(k) "Goods" includes all kinds of articles, wares, merchandise, animals, plants and currency, whether prohibited or not, whether meant for sale or not, and where any such goods are sold, the proceeds of such sale;

(l) "Means of Transport” include any vessel (including lighters and barges, whether or not ship borne, and hydrofoils), hovercraft, aircraft, motor road vehicles including cycles with engines, trailers, semi-trailers and combination of vehicles) and railway rolling stock; together with their normal spare parts, accessories and equipment carried on board means of transport (including special equipment for the loading, unloading, handling and protection of cargo and where the local situation so requires, porters and pack animals;

(m)“Security” means that which ensures to the satisfaction of the Customs Authority that an obligation to the Customs will be fulfilled. Security is defined as "general when it ensures that the obligations arising from several operations will be fulfilled as defined in General Annex Chapter 2 to the Revised Kyoto Convention;

(n) "Surety" means an undertaking made by any person to the Customs Authorities of a a State Party to answer for, or be collaterally responsible for the debt, obligation, default or miscarriage of the transit or and for the payment to transit State Parties of import duties and any other sums of money due and payable to them in the event of non-compliance with the terms and conditions of transit relating to transit traffic introduced into the transit State Party by carriers of such goods;

(o) "Transit traffic" means the passage of goods including unaccompanied baggage, mail, persons and their means of transport through the territories of the State Parties in accordance with the itineraries set out in Article 2(1) of this Annex;

(p) "Transitor" means the legal entity responsible for the conveyance of goods through the Customs operations;

(q) "Vessel" means any mechanically propelled ship, boat or craft with inboard engine power or any other craft moving through water carrying passengers or cargo.

Article 2 General Provisions

1. State Parties undertake to grant all transit traffic freedom to traverse their respective territories by any means of transport suitable for that purpose when coming from:
2. a State Party or bound to one; or
3. Third Parties and bound to other State Parties ; or
4. other State Parties and bound to third countries; or
5. Third Parties and bound to third Parties.
6. State Parties undertake not to levy any import or export duties on the transit traffic referred to in paragraph 1 of this Article.
7. Notwithstanding paragraph 2 of this Article, and in accordance with paragraph 1 of Article 8 of this Annex, a State Party may levy administrative or service charges equivalent to services rendered.
8. For purposes of this Annex, State Parties undertake to ensure that there shall be no discrimination in the treatment of persons, goods and means of transport coming from, or bound to State Parties, and that rates and tariffs for the use of their facilities by other State Parties shall not be less favourable than those accorded to their own traffic.
9. Notwithstanding the provisions of paragraph 1 of this Article, a State Party may apply

measures in accordance with Articles 26 and 27 of the Protocol on Trade in Goods.

Article 3 Scope of Application

1. This Annex shall apply to any transitor, mail, means of transport, or any shipment of

bonded Goods in transit between two points either in two different State Parties or

between a State Party and a Third Party.

1. The provisions of this Annex shall only apply to Transit Traffic if it is:
2. operated by a carrier licensed under the provisions of Article 5 of this Annex;
3. performed under the conditions set out in Article 4 of this Annex by means of transport approved by the Customs office of departure and issued with certificates which shall be in the form set out in Appendix III of this Annex;
4. guaranteed by a surety in accordance with the provisions of Article 6 of this Annex; and
5. undertaken under the cover of AfCFTA.
6. The provisions of this Annex shall apply only to transit goods being carried by road.

Article 4 Approval of Means of Transport

1. The Means of Transport used in Transit trade shall be licensed by the appropriate licensing authorities of the State Parties in accordance with their national laws and regulations.
2. For purpose of paragraph 2(b) of Article 3 of this Annex Means of T ransport, together with their cargo, shall be presented at the Customs offices of departure for examination to ensure that they comply with the technical conditions stipulated in Appendix II of this Annex before each transit traffic operation is undertaken.

Article 5

Licensing of Transitors and Carriers

1. Any person intending to be engaged in the operation of Transit Traffic under the provisions of this Annex shall be licensed for that purpose by the competent authorities of the State Party in whose territory the person is normally resident, or established and the competent authority shall inform all the other State Parties of all the persons so licensed.
2. The conditions for the issuance of the licences referred to in paragraph 1 of this Article to persons resident, or established in a State Party shall be that:
3. the requirements of Article 4 of this Annex have been satisfied, in accordance with national laws; and
4. the applicant has not, during the previous three (3) years been convicted of a serious offence including accepting, receiving or offering bribes, smuggling, theft, destroying documents of evidence, and failing or refusing to give information relating to interstate transportation of goods.
5. The conditions for issuance of licences referred to in paragraph 1 of this Article to applicants who are not resident or established in a State Party shall be determined by each State Party in consultation with other State Parties provided that such conditions shall not be more favourable than conditions accorded to persons resident or established in that State Party.
6. Licensed carriers and Transitors, who are convicted of customs offences referred to in paragraph 2(b) of this Article, or who conceal their record of having been convicted of such offences in order to obtain a licence, or who commit such offences after they have been licensed to operate Transit Traffic, shall have their licences suspended automatically or withdrawn by the issuing authorities who shall thereupon notify the Customs Authorities of the other State Parties and the respective sureties of the action taken.

Article 6 Bonds and Sureties

All Transit Traffic operations carried under the cover of AfCFTA Transit Document shall be covered by customs bond and sureties arrangements.

Article 7 AfCFTA Transit Document

1. Subject to conditions and regulations as approved by the Council of Ministers, each State Party undertakes to authorise a Transitor, or their authorised agent, to prepare

in respect of each consignment of transit goods an AfCFTA Transit Document in accordance with the notes set out in Appendix I of this Annex.

1. The AfCFTA Transit Documents shall conform to the standard form approved by the

Council of Ministers. The AfCFTA Transit Documents shall be valid for only transit operation and shall contain a sufficient number of copies for customs control and discharge required for the transport operation concerned.

1. All means of transport covered by the provisions of this Annex shall be accompanied by relevant AfCFTA Transit Documents and such documents shall, on demand, be presented by the carriers, together with the respective means of transport and certificates to the customs offices en-route and the customs offices of destination for their appropriate actions.

Article 8

Exemption from Customs Examinations and Charges

1. Subject to the provisions of Articles 4 and 5 of this Annex being satisfied, goods

carried in approved sealed means of transport, sealed packages, or accepted by

Customs Office of Departure as goods not susceptible to tampering substitution or manipulation, and permitted to be carried unsealed shall not be subject to:

1. customs duties and all transit duties or other charges imposed in respect of transit, except charges for transportation or those commensurate with administrative expenses entailed by Transit or with the cost of services rendered.
2. customs examination at such offices, as a general rule.
3. Notwithstanding paragraph 1 of this Article, the Customs Authorities may, where they suspect an irregularity, carry out at such offices, a partial or full examination of the goods.

Article 9 Transit Procedures

1. All Transit goods and Means of Transport shall be presented to the Customs Office of Departure together with duly completed AfCFTA Transit Documents supported by appropriate bonds and sureties as necessary for examination and affixing of customs seals.
2. The Customs Office of Departure shall decide whether the Means of Transport to be used provides enough safeguards to ensure customs security and whether the shipment may be made under the cover of a relevant AfCFTA Transit Document.
3. Where it is not possible for Goods to be transported in sealed Means of Transport or compartments, the Customs Authorities at the Customs Office of Departure may authorise the transportation in such unsealed Means of Transport or compartments and under such conditions as they may deem necessary and endorse the relevant AfCFTA Transit Document accordingly.
4. The Means of Transport used in the transportation of Goods under the provisions of this Annex shall not at the same time be used for the transportation of passengers, unless such goods are carried in a part of the Means of T ransport which is adequately sealed off to the satisfaction of the Customs Office of Departure.
5. Nothing may be added, or taken from, or substituted for goods consigned under cover of an AfCFTA Transit Document during off-loading, trans-shipment or collecting.
6. The Means of Transport together with the respective AfCFTA Transit Document shall be presented to the Customs Authorities at Customs offices En-route and at Customs Offices of Destination for such administrative action as may be required under the provisions of this Annex.
7. Except where irregularities are suspected, the Customs Offices En-route within a State Party shall respect the seals affixed by the Customs Authorities of other State Parties. Such Customs Authorities may, however, affix additional seals of their own.
8. In order to prevent abuse, the Customs Authorities shall publish in legislation the specific consignments that require:
9. the Means of Transport to be escorted through the territory of their country, at the Transitor's expense; or
10. that examination of the Means of Transport and their loads be carried out en- route in the territory of their country.
11. Any unsealed shipment covered by an appropriate AfCFTA Transit Document shall have only one Customs Office of Destination.
12. If the Goods in a Means of Transport are examined at a Customs Office en-route or anywhere in the course of transportation, the Customs Authorities concerned shall affix new seals and make a certified declaration in conformity with Appendix IV of this Annex including updating of any electronic management system of the particulars of irregularities, if any, and of the new seals affixed by them.
13. In the event of an accident or imminent danger necessitating the immediate unloading in whole or part of a Means of Transport, the Carrier:
14. may on their own initiative take such steps as may be necessary to ensure the safety of the Goods being transported, or the Means of T ransport in which they are being transported;
15. shall, as soon as possible thereafter, inform the Customs Office of Departure thereof; and
16. shall arrange, where appropriate, for the goods to be transferred to other Means of Transport in the presence of Customs Authorities concerned or any other duly designated authority in accordance with national law which shall endorse the AfCFTA Transit Document with the particulars of the Goods transferred to the other Means of Transport and where possible, apply its customs seal.
17. On arrival at the Customs Office of Destination, the AfCFTA Transit Document shall be discharged without delay. If, however, the goods cannot be immediately entered under that Customs regime, the Customs Authorities may reserve the right to discharge the document conditionally upon a new liability being substituted for that of the Surety guaranteeing the said document.
18. If the seals affixed by Customs Authorities are broken en-route otherwise than in the circumstance set out in paragraph 10 of this Article or if Goods are destroyed or damaged without breaking such seals, the procedure laid down in paragraph 11 of this Article shall, without prejudice to the application of the provisions of national laws, be followed and a certified report drawn up in the form set out in Appendix IV of this Annex.
19. When a Customs Authority is satisfied that the Goods covered by an AfCFTA Transit Document have been destroyed by force majeure, an exemption from payment of the duties shall be granted.

Article 10

Obligations of State Parties and Liabilities of Sureties

Subject to the provisions of Article 6 of this Annex, the obligations of State Parties and

liabilities of Sureties are as follows:

1. each State Party undertakes to facilitate the transfer to the other State Party of the funds necessary for payment of premiums or other charges claimed from Sureties under the provisions of this Annex, or for payments of any penalties which the Transitor may incur in the event of an offence being committed in the course of Transit transport operations;
2. State Parties agree to ensure that the liabilities undertaken by sureties cover import and export duties incurred by the holder of an AfCFTA Transit Document and other persons involved in the transit transport operation under the Customs Law and regulations of the State Party in which an offence has been committed;
3. for the purpose of determining the duties referred to in paragraph (b) of this Article, the particulars of the goods as entered in the AfCFTA Transit Document shall, unless the contrary is proved, be regarded as correct;
4. where feasible, use the services available in other State Parties in all transit traffic operations provided such services are competitive and efficient than those offered by other State Parties;
5. where an AfCFTA Document has not been discharged, or has been discharged conditionally, the competent authority of a State Party shall not claim from the Surety the payment referred to in paragraph (b) of this Article unless such authority has, within a period of one (1) year from the date on which the AfCFTA Transit Document was taken on charge, notified the surety of the non­discharge or conditional discharge of the document;
6. In situations where the certificate of discharge was obtained erroneously or fraudulently, paragraph (e) of this Article shall not prevent the authorities of a State Party from taking the necessary action against the person or persons concerned at any time thereafter in accordance with their national laws;
7. the Surety and the persons charged with an offence shall be jointly and severally liable for payment of such sums. The fact that Customs Authorities might have authorised the examination of Goods elsewhere than at a place where the business of the Customs Office of Departure or Destination is usually conducted, shall not affect the liability of the Surety;
8. the liability of the Surety to the authorities of any State Party shall commence from the time when the AfCFTA Transit Documents are accepted by the Customs Authorities of that State Party, and shall cover only the Goods enumerated in the document;
9. when Customs Authorities of a State Party have unconditionally discharged a AfCFTA Transit Document, they may not subsequently claim from the Surety payment in respect of the duties referred to in paragraph (b) of this Article unless the certificate of discharge was issued erroneously or fraudulently;

(j) the Transitor and Surety shall be released from their undertaking to the Customs Authorities of each State Party entered when Goods carried have been duly exported or have otherwise been accounted for satisfactorily to the Customs Authorities of the State Party concerned;

(j) the claim for payment referred to in paragraph (b) of this Article shall be made within three (3) years from the date when the Surety was notified that the relevant AfCFTA Transit Document had not been discharged or had been discharged conditionally, or that the certificate of discharge had been obtained

erroneously or fraudulently. However, the period of three (3) years referred to in this Article includes a period of legal proceedings. Any claim for payment under the provisions of this Article shall be made within one (1) year from the date when the decision of the court becomes enforceable.

Article 11 Other Provisions

1. State Parties shall endeavour to establish, or facilitate the establishment of Transit or customs areas for the temporary storage of transit Goods where the direct trans­shipment of Goods from one Means of Transport to another is not possible.
2. The management and operation of such Transit or customs areas shall be in accordance with the customs rules and regulations of the State Party concerned.
3. State Parties undertake to permit and facilitate the establishment of cargo clearing and forwarding offices in their territories by persons, organisations or associations of other State Parties or their authorised agents, for the purpose of facilitating Transit Traffic in accordance with the national laws and regulations.
4. Each Means of Transport engaged in international Transit Traffic operations under cover of a AfCFTA Transit Document shall have affixed to its front and rear, a plate bearing the letters "AfCFTA TRANSIT", the specifications of which are set out in Appendix V of this Annex. These plates shall be so placed as to be clearly visible, removable and capable of being sealed. The seals to such plates shall be affixed by the Customs Offices of Departure and shall be removed by the authorities of the Customs Offices of Destination.
5. State Parties shall, through the Secretariat, notify each other of the specimen of seals, stamps and date stamps they use.
6. Each State Party shall, through the Secretariat, send to the other State Parties, a list of its customs offices and stations and normal working hours of such offices.
7. Neighbouring State Parties shall consult each other in determining the frontier customs offices to be included in the list referred to in paragraph 6 of this Article, and where possible such offices shall be juxtaposed.
8. In all customs operations referred to in this Annex, no charges shall be levied for customs attendance, save where it is provided on days or at times or places other than those appointed for such operations.
9. Whenever possible, customs frontier offices shall remain open for business for twenty-four (24) hours a day or shall allow execution of customs formalities relating to the transportation of Goods under the provisions of this Annex outside the normal working hours.
10. Any breach of the provisions of this Annex by a Carrier shall render the Carrier liable to penalties prescribed by law in the State Party where the offence is committed.
11. Nothing contained in this Annex shall prevent State Parties from enacting legislation in respect of transport operations commencing or terminating in or passing through their territories, provided that the provisions of such legislation:
12. shall not conflict with the provisions of this Annex; and
13. do not confer benefits on Third Parties that are more favourable than those enjoyed by the State Parties.
14. All the AfCFTA Transit Documents may have a note explaining how that particular document should be used.

Article 12

Sub-Committee on Trade Facilitation, Customs Cooperation and Transit

1. The Committee on Trade in Goods shall, in accordance with Article 31 of the Protocol on Trade in Goods, establish a Sub-Committee on Trade Facilitation, Customs Cooperation and Transit.
2. The Sub-Committee shall be composed of duly designated representatives from State Parties and shall carry out the responsibilities assigned to it under this Annex or by the Committee on Trade in Goods.

Articles 13

Implementation

1. State Parties shall expedite the implementation of this Annex.
2. The extent and the timing of implementation of the provisions of this Annex shall be related to the implementation capacities of State Parties as notified to the AfCFTA Sub­Committee on Trade Facilitation or under the WTO Agreement on Trade Facilitation.

Article 14 Regulations

The Council of Ministers shall adopt regulations to facilitate the implementation of this Annex.

Conflict of Provisions

In the event of a conflict between this Annex and the Agreement, the latter shall prevail.

Article 16 Dispute Settlement

Any dispute between the State Parties arising out of or relating to the interpretation or application of any provision of this Annex, shall be settled in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes.

Article 17 Review and Amendment

1. This Annex shall be subject to review and amendments in accordance with Articles 28 and 29 of the Agreement.

Notes for the Use of the African Continental Free Trade Area Transit Document

1. The AfCFTA Transit Document herein after referred to as " AfCFTA TD” shall be prepared in the country of commencement where the goods are first declared to be in transit.
2. The AfCFTA TD shall be printed in the Arabic, English, French and Portuguese languages, but completed in the language of the country of commencement. The Customs Authorities of the other countries traversed reserve the right to require their translation into their own language.

In order to avoid unnecessary delays which might arise from this requirement, carriers are advised to supply the operator of the means of transport with the requisite translations.

1. The AfCFTA TD remains valid until completion of the transit operation at a customs office of destination, provided that it has been taken under customs control at the customs office of commencement within the time limit given by issuing authorities and meets the following requirements:
2. The AfCFTA TD must be typed or multi-graphed or printed legibly;
3. When there is not enough space on the manifest to enter all the goods carried, separate sheets to the same model as the manifest may be attached to the latter but all copies of the manifests must contain the following particulars:
4. a reference to the sheets;
5. the number, type of packages and goods in bulk be enumerated on the separate sheets; and
6. the total value and total gross weight of the goods appearing on the said sheets.
7. Weights, volume and other measurements shall be expressed in units of the metric system and values in the currency of the country of commencement, or in the currency determined by the Council of Ministers.
8. No erasures or over-writing shall be allowed on the AfCFTA TD. Any correction shall be made by deleting the incorrect particulars and adding, if necessary, the required particulars.
9. Any correction, addition or other amendment shall be acknowledged by the person making it and countersigned by the Customs Authorities.
10. When the AfCFTA TD covers coupled means of transport, or several containers, the contents of each means of transport shall be indicated separately on the manifest.

This information shall be preceded by the registration of identification number of the means of transport or container.

1. If there is more than one customs office of destination, the entries concerning the goods taken under customs control at, or intended for, each office shall be clearly separated from each other on the manifest.
2. In the event of customs seals being broken or goods being destroyed or damaged accidentally en-route, the operator of the means of transport shall ensure that a certified report is drawn up as quickly as possible by the authorities of the country in which the vehicle is located.
3. The operator shall approach the Customs Authorities, if there are any near at hand, or if not, any other competent authorities. Operators shall accordingly provide themselves with copies of the certified report form laid down in Appendix IV of this Annex on Transit Facilities within the AfCFTA.

Regulations Relating to Technical Conditions Applicable to means of transport of Goods within the African Continental Free Trade Area Under Customs Seal

1. Approval for the intra- African Continental Free Trade Area transport of goods by means of transport under Customs seal may be granted only for means of transport constructed and equipped in such a manner that:
2. customs seals can be simply and effectively affixed thereto;
3. no goods can be removed from, or introduced into the sealed part of the means of transport without obvious damage to it or without breaking the seals; and
4. they contain no concealed spaces where goods may be hidden.
5. The means of transportation shall be so constructed that spaces in the form of compartments, receptacles or other recesses which are capable of holding goods are readily accessible for customs inspection.
6. Should any empty spaces be formed by the different layers of the sides, floor and roof of the means of transport, the inside surface shall be firmly fixed, solid unbroken and incapable of being dismantled without leaving obvious traces.
7. Openings made in the floor for technical purpose, such as lubrication, maintenance and filing of the sand-box, shall be allowed only on condition that they are fitted with a cover capable of being fixed in such a way as to render the loading compartment inaccessible from the outside.
8. Doors and all other closing systems of means of transport shall be fitted with a device which shall permit simple and effective customs sealing. This device shall either be secured by at least two bolts, riveted or welded to the nuts on the inside.
9. Hinges shall be so made and fitted that doors and other closing systems cannot be lifted off the hinge-pins, once shut; the screws, bolts, hinge-pins and other fasteners shall be welded to the outer parts of the hinges. These requirements shall be waived, however, where the doors and other closing systems have a locking device inaccessible from the outside which, once it is applied, prevents the doors from being lifted off the hinge-pins.
10. Doors shall be so constructed as to cover all interstices and ensure complete and effective closure.
11. The means of transport shall be provided with a satisfactory device for protecting the Customs seal, or shall be so constructed that the customs seal is adequately protected.
12. The foregoing conditions shall also apply to insulated vehicles, refrigerator vehicles, tank vehicles and furniture vehicles in so far as they are not incompatible in accordance with their use.
13. The flanges (filler caps), drain cocks and manholes of tank wagons shall be so conducted as to allow simple and effective customs sealing.
14. Folding, or collapsible containers are subject to the same conditions as non-folding or non-collapsible containers, provided that the locking device enabling them to be folded or collapsed allows customs sealing and that no part of such container can be moved without breaking the seals.

Appendix III Certificate of Approval of Means of transport

1. Certificate No Country of Commencement

Date of Expiry

1. Attesting that the means of transport specified below fulfils the conditions required for admission to intra- African Continental Free Trade Area transport of goods under Customs seals.
2. Name and address of holder (Owner of Carrier)
3. Make
4. Type
5. Engine No Chassis No
6. Registration No.
7. Other particulars
8. Issued at (Place and Country) on

(Date)

1. Signature and stamp of issuing office at

NOTE. This licence shall be framed and exhibited in the cab of the means of transport if not in use, or on a change of owner or carrier, or on expiry of the period of validity of the certificate, or if there is any material change in any essential particulars of the means of transport.

Certified Declaration Form for Examination of Contents of Means of Transport

1. AfCFTA Transit Document No Issued at
2. No. of the Certificate of Approval of means of transport.
3. Information concerning the means of transport examined:

* Means of transport
* Registration No

1. Reasons for making the examination (check where appropriate)

|  |  |
| --- | --- |
|  | Seals broken or missing |
|  | Evidence of break-in |
|  | Vehicle involved in an accident |
|  | Other |

1. Results of examination (Check where appropriate)

All packages were intact and none of their contents were missing

The following Goods/packages were missing / damaged

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Serial No. | Consignment  and  identification | Number and kind of packages | Description of goods | Remarks |
|  |  |  |  |  |

1. Comments
2. Name of Officer Signature Stamp

Appendix V AfCFTA Transit Plates

1. The words " AfCFTA TRANSIT" shall be 70 millimetres high.
2. Roman letters shall be used.
3. The letters shall be white on a blue background.
4. The letters shall be arranged as follows:

AfCFTA TRANSIT