



POLICY BRIEF

Free trade and mobility in Africa: what is at stake?

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Free trade and the free movement of people are both crucial for Africa's long-term development. Although they are complementary, governments show more political will for implementing free trade than allowing free movement of people. This policy brief explores the relationship between the African Continental Free Trade Area and the movement of people. It makes suggestions about how Africa can better use the opportunities presented by both.

Key findings

- ▶ An African continental free trade area enables a coordinated and efficient trade regulatory system. Coupled with the freedom of movement of people, free trade can unlock Africa's development potential and enhance regional integration.
- ▶ There is a dissonance between efforts to enhance free trade and those to promote freedom of movement, with countries stalling on the latter.
- ▶ The interdependence of trade and mobility is complex, making implementation difficult but not impossible.
- ▶ Free movement of people, free trade and enhanced movement of goods should complement each other.
- ▶ While migration has a positive effect on trade, the effect of trade agreements on migration is mixed.
- ▶ Trade agreements can create legal migration opportunities in the area of services, which can reduce the incentive for irregular migration.
- ▶ Informal cross-border trade is vital in Africa. However, research on the issue is lacking, and more data is required for policy formulation.

Recommendations

African countries:

- ▶ Adopt a progressive approach to free movement that allows states to negotiate their own pathways to reaping the benefits of the African Continental Free Trade Area (AfCFTA) and the Freedom of Movement Protocol.
- ▶ Establish common standards on trade and mobility, including for example on national labour, immigration, professional licensing and informal cross-border trade.
- ▶ Develop reciprocal agreements on qualifications and skills that complement existing arrangements on the trade in services under the AfCFTA.
- ▶ Develop a continent-wide digital identification system recognised by every African country to enhance migration management and cross-border trade.
- ▶ Establish a regional labour market information database that allows employers to find the people they need regardless of where they live.

AfCFTA Secretariat:

- ▶ Consider establishing a coordination mechanism to understand and develop the relationship between trade and mobility.
- ▶ In partnership with the African Union (AU), assist countries to overcome negative perceptions about the impact of migration on development.

AU Commission:

- ▶ Collaborate with civil society, the private sector and the media to expedite implementation of the Freedom of Movement Protocol.
- ▶ Improve coordination and collaboration between those working on AfCFTA, free movement of persons and labour migration.
- ▶ Work with regional economic communities to align policies and build on their experience regarding the free movement of persons.
- ▶ Integrate programming with other AU institutions to address member states' concerns about security.

Introduction

Regional integration is one of the pillars of the African Union (AU) and its member states. To achieve it, policies, systems and practices must be adopted to reduce barriers to access, facilitate people's freedom of movement, encourage intra-regional trade, and develop joint strategies.¹ It is for this reason that as part of its efforts to establish the African Economic Community (AEC),² the AU has brokered processes to develop a single African market for goods and services that is supported by the free movement of people.

The African Continental Free Trade Area (AfCFTA), established in 2018, is a framework for regulating and integrating intra-African trade.³ Creating the AfCFTA is an important step in addressing the developmental challenges facing Africa⁴ through a coordinated and efficient continental trade regulatory system that can stimulate growth. The expectation is that through the AfCFTA, unity, self-determination, independence, progress and communal prosperity, as outlined in the AU's Agenda 2063, will be realised.⁵

There is a dissonance between efforts to enhance free trade and those to promote freedom of movement, with countries stalling on the latter

Mobility is intimately intertwined with trade.⁶ As such, when the AfCFTA agreement was reached in 2018, African heads of state also adopted a protocol on the free movement of persons.⁷ However, the pace of ratification and implementation of the two instruments has been asymmetrical, with states demonstrating more political will for trade (Chart 1).

This policy brief outlines the relationship between AfCFTA and the freedom of movement of people in Africa. It explores how the two processes are complementary and should be better used jointly to achieve Africa's long-term vision under Agenda 2063.

To better inform the design of interventions to optimise the opportunities of AfCFTA, this policy brief was developed following qualitative research by the authors. Desktop research on relevant policies, reports and academic articles was undertaken. This was supplemented by interviews with key stakeholders at national, international and regional intergovernmental agencies and research institutions.

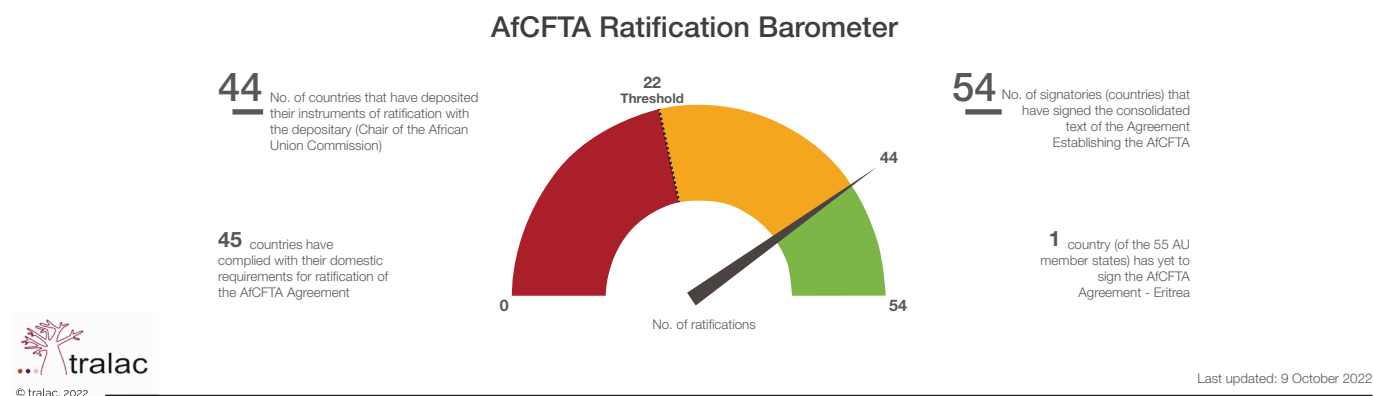
Africa's development and trade

In 2013, the AU adopted Agenda 2063, which outlines the continent's long-term goals over 50 years. It sets forth a vision of an integrated, politically united continent based on Pan-Africanist values. The AfCFTA was adopted to complement the Treaty Establishing the AEC.



REGIONAL INTEGRATION
REQUIRES REDUCING
BARRIERS TO FREE
MOVEMENT OF PEOPLE

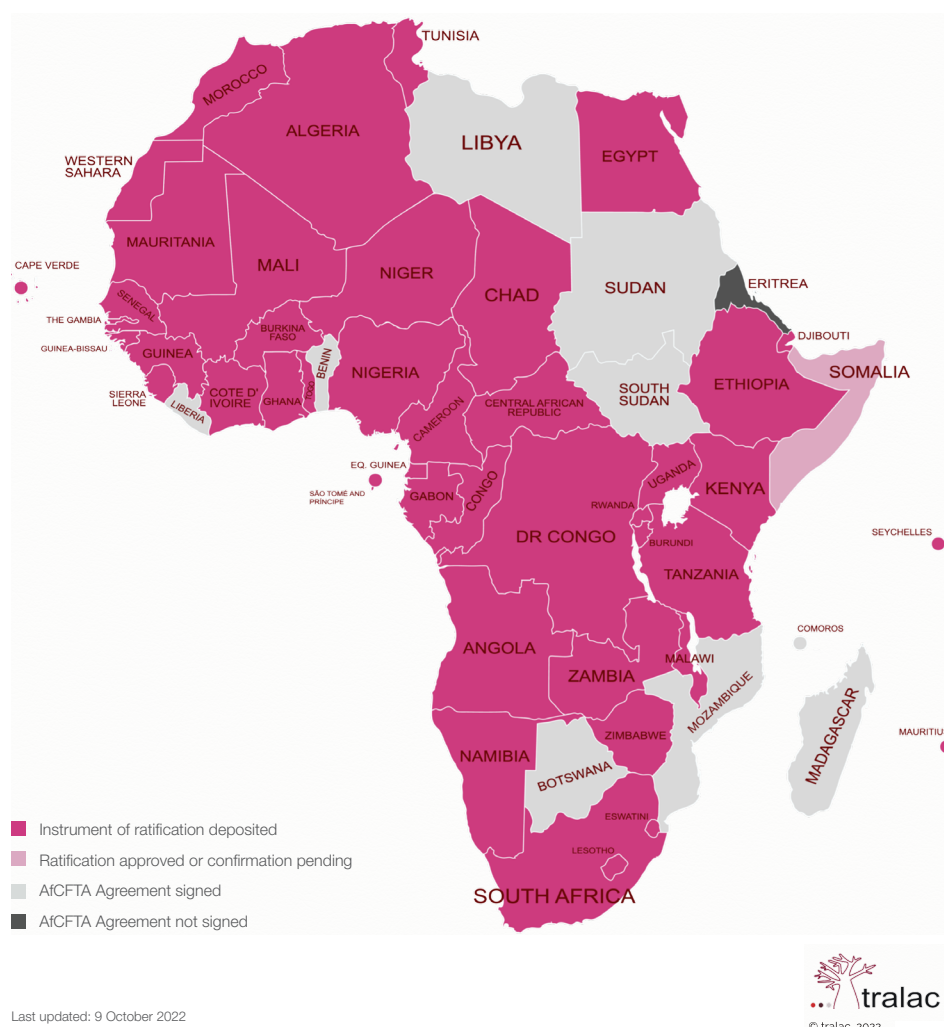
Chart 1: Status of AfCFTA ratification



Number of ratifications deposited



Which countries have ratified the AfCFTA Agreement?



Last updated: 9 October 2022

Source: tralac, <https://www.tralac.org/resources/infographic/13795-status-of-afcfta-ratification.html>

The unrestricted movement of people between member countries, including eliminating all visa requirements for intra-African travel, is one of the target areas under Agenda 2063 to be achieved by 2023. In March 2018, the AU adopted the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment (Free Movement of Persons Protocol, or Freedom of Movement Protocol) alongside the AfCFTA agreement.

These instruments are regarded as complementary. Together they are intended to enhance Africa's promise for development through free trade, intra-African knowledge and skills sharing. They are meant to foster a Pan-African identity, social integration, tourism, enhance cross-border infrastructure projects and shared development, and promote an all-encompassing approach to border management. As of the end of 2021, 50% of Africans still needed a visa to travel to other African countries, affecting their ability to move and trade freely between countries.⁸

Trade is a vital conduit through which intracontinental mobility has boosted Africa's economic development. Several progressive policy frameworks at the regional and continental levels have been developed to enhance the free movement of people and labour between states. They include the Migration Policy Framework for Africa (MPFA),⁹ Single African Air Transport Market,¹⁰ AU Strategy for a Better Integrated Border Governance,¹¹ and the Free Movement of Persons Protocol.

The AfCFTA is anticipated to transform Africa and be a significant driver of economic growth and industrialisation.¹² Trade in commodities and services, investments and intellectual property are covered under the agreement. The agreement goes beyond a conventional free trade area by addressing investment, trade in products and services, intellectual property rights, competition policy and e-commerce. As one of its overarching goals and to advance global trade and economic cooperation, the agreement emphasises the significance of inclusiveness, particularly gender equality.¹³

A few major regional players continue to dominate intra-African trade leading to some concerns of uneven distribution of gains between middle-income countries and smaller economies, particularly the least-developed countries. However, as it stands, intra-African trade (in the absence of the AfCFTA) is stifled.

The United Nations Conference on Trade and Development (UNCTAD) estimates that intra-African exports by the end of 2021 were only 14.4%.¹⁴ UNCTAD and the UN Economic Commission for Africa (UNECA) data show that the AfCFTA could change this dramatically. UNECA's simulation of the modalities adopted for the AfCFTA agreement's tariff reduction of goods estimates that there would be a 3% increase in exports, augmenting the value of intra-African trade by between 15% and 25% (or US\$50 billion and US\$70 billion) by 2040, compared to the status quo.¹⁵ Informal trade, which is quite significant in Africa, is not included in these statistics.

Trade is a vital conduit through which intracontinental mobility has boosted Africa's economic development

In Africa, informal cross-border trade (ICBT) is widespread. The value of informal commerce may equal or surpass the value of formal trade for specific goods and countries.¹⁶ African borders are frequently traversed by unregistered companies and informal traders, especially women, who buy and sell goods throughout the continent.

The recognition of the significant contribution of ICBT has been bedevilled by the lack of reliable and regular data. In 2021, UNECA estimates found that ICBT equals between 7% and 16% of all formal intra-African trade flows. Significantly between neighbouring countries, ICBT ranges from 30% to 72% of formal trade. According to UNECA, these 'figures are significant and have important implications for the value, composition, and sophistication of intra-African trade, particularly between neighbouring countries.'¹⁷ Hence implementation of the AfCFTA also demands for the institutionalisation of ICBT data collection to facilitate the accurate tracing of intra-continental trade flows.

ICBT is particularly significant for fragile and conflict-affected states where formal trade channels may be adversely affected. This is due to the ICBT's capacity to provide traders with a market outside the fragmented and potentially failing domestic market. Given its scale and economic contribution, informal trade warrants careful study when formulating effective policy in Africa.

Mobility and AfCFTA

Migration plays a crucial role in Africa's regional integration agenda.¹⁸ Evidence shows that migration contributes to socio-economic development in both countries of origin and destination countries, as many host countries tend to trade with countries of origin. Establishing linkages through transnational activities such as capital investment, philanthropy, knowledge transfer and entrepreneurship are critical facets of migration.¹⁹ Tim Murithi observes that Africa's integration 'is a pipe dream without the foundations for genuine African citizenship being laid, specifically the free movement of Africans across the continent without the hindrance of visa restrictions.'²⁰

Econometric studies that explore the impact of migration on trade in Africa attribute increased bilateral trade between recipient countries and countries of origin to the presence of migrants in a country.²¹ This is usually dubbed 'nostalgic trade', which refers to trade in goods and services distinctive to migrants' home countries. Through nostalgic trade, migrants can consume goods from their home country, a factor that substantively benefits home and recipient countries.

Migration contributes to socio-economic development in both countries of origin and destination countries, due to trade links between them

According to Indianna Minto-Coy, 'the diaspora [is] a key resource and route towards participation and enhanced competitiveness in the global economy for firms originating in countries of origin. This is useful for businesses generally, but more specifically for firms from small and developing nations who have traditionally found it difficult to internationalise, diversify, and identify "new" markets.'²²

Besides, regular migration could significantly contribute to the development of host countries by providing them with the experience, knowledge and services they require from both skilled and unskilled labour. While the positive impact of migration and trade tends to tilt towards recipient countries, the resultant imbalance of trade for countries of origin could be rectified through remittances and direct investment.²³

On human mobility, the AfCFTA Protocol on Trade in Services prohibits discrimination against African services and suppliers, particularly in sectors where AfCFTA parties are to offer each other specific commitments. Under the AfCFTA, African countries must give each other progressively better access to services within their markets. In 2018, African member states agreed on five priority services as the starting point for engagement. These are financial services, communication, transport, tourism, and business services. By September 2022, initial offers on the trade in services from 43 countries were already received.²⁴ This means that the continent is on course to finalising this essential element of the process.



INCREASED TRADE BETWEEN
RECIPIENT AND ORIGIN
COUNTRIES HAS BEEN LINKED
TO THE PRESENCE
OF MIGRANTS

The AfCFTA requires its members to collaborate to ensure that adopted regulations support the agreement's objectives, which would allow Africans to move within each other's territories to supply services. The opportunities created by these agreements have the potential to help reduce poverty.

Furthermore, such structured agreements are essential for establishing a special channel for the protection of people who migrate for service provision under the terms of the agreement. This movement is mainly contract-based and less contentious than people who relocate in the hopes of working generally. It also presents more equitable chances for the defence of the rights of service providers.

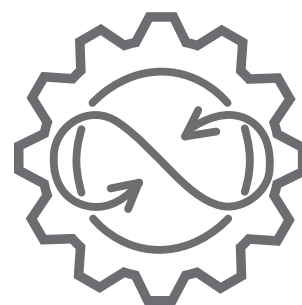
For the Free Movement Protocol to be successful, the agreement must be translated and contextualised to align with domestic realities

Why free movement?

The AU's MPFA and the African Common Position on Migration and Development articulate clearly that Africa can advance economic development through better migration management and governance. For the AU, member states and regional economic communities (RECs) need to formulate policies that use migration for development. Thus, like the AfCFTA, the Free Movement Protocol has transformative potential for Africa. Its effective implementation will rely on country-level action coupled with active oversight through the AU's intergovernmental system.

While the Free Movement Protocol is a continental agreement, its effective governance and implementation occur at the national and regional levels. Article 25 says: 'States Parties shall harmonise and coordinate the laws, policies, systems, and activities of the regional economic communities of which they are members relating to the free movement of persons with the laws, policies, systems, and activities of the Union.' Already, many African countries have participated in freedom of movement declarations at the REC level and thus are aware of the responsibility that comes with freedom of mobility.²⁵

For the Free Movement Protocol to be successful, the agreement must be translated and contextualised in domestic realities. This will include contextualising free movement within the broader long-term strategy of the continent (and its member states). In this regard, it includes ways in which its implementation can help to build resilience in Africa for unanticipated mobility; support the transition to a borderless continent; provide a framework for policy coherence on the digitalisation of civil registers; and help to meet the long-term aspirations of 'making Africa a home.'



LIKE AFCFTA, THE FREE
MOVEMENT PROTOCOL
COULD TRANSFORM AFRICA

However, as highlighted, progress on ratifying and implementing the Free Movement Protocol is slow – slower than that for the AfCFTA.

Ratification: Freedom of Movement Protocol vs AfCFTA

There are four main interrelated reasons that African states have been reluctant to adopt the Free Movement Protocol compared to the AfCFTA.

First, concerns are raised around mass migration from lesser developed countries towards the more developed middle-income African countries.²⁶ For one policy expert interviewed, the imbalance in development highlighted above as influencing trade relations is what breeds this fear of a potential mass exodus of people from less developed countries to middle-income countries should open borders be embraced.²⁷

The tunnel view based on protecting state sovereignty and the sanctity of borders will need to change

The policy expert says there is a tendency to focus on the negatives. At the same time, inadequate attention is given to the gains that migration brings to recipient countries and how it provides migrants with an opportunity to better their lives. The policy expert advocates for the differential and gradual streamlining of the fiscal and labour market and immigration policies that foster the integration of migrants. The availability of continental labour market information would be helpful for countries that would like to enter into bilateral agreements regarding skills and knowledge transfer.

Second, it is essential to recognise concerns about state sovereignty, undocumented migrants and the fear that free movement could propel insecurity. According to one international relations expert interviewed for this policy brief, African governments need to openly discuss their fears about freedom of movement.²⁸

Sovereignty remains a critical feature that allows states to control their borders and internal affairs. There is concern that allowing the free movement of people across borders will interfere with sovereignty. While the international relations expert maintains that some of these concerns are unfounded, they advise that these should not be overlooked in the process of rolling out the AfCFTA and, eventually, free movement.

Third, with the COVID-19 pandemic wreaking havoc on economies, calls to prioritise citizens over migrants have gained momentum. In this scenario, while the AfCFTA holds the promise of recovering from the pandemic and rebuilding Africa's resilience, the Free Movement Protocol is seen as an impediment to this.

Fourth, the fact that states are encouraged to relent on border regulation and control without corresponding robust protective structures may have contributed to the lack of ratification of the Free Movement Protocol. An interviewee from the AU Development Agency-New Partnership for Africa's Development (AUDA-NEPAD) contends that critical infrastructure is required to ensure that the members experience equitable gains from AfCFTA and the Freedom of Movement Protocol.²⁹

An international relations expert interviewee makes similar observations.³⁰ For them, emerging threats such as terrorism, extremism, human trafficking and money laundering, among others, are enduring challenges that many African states are grappling with. Free movement, without corresponding regulatory measures to mitigate risks, is seen in this context as a challenge rather than an opportunity.

To address this, developing a robust digital identification system that allows states to efficiently trace the mobility of people would be key. According to one government official, African states have been mandated to achieve a certain level of digitised identification system as a prerequisite for the implementation of the Free Movement Protocol.³¹

If African states establish frameworks for digital identification systems, this could help address legal, technical and operational challenges at the national level. These frameworks will be among the building blocks in developing a collaborative strategy to improve

migration data management at the continental level while adhering to data protection requirements to promote peace and security on the continent. The goal is to create a portal for Africa based on national data that provides access to all relevant information relating to borders, security and asylum. This could be backed by a shared biometric matching service and a common identity repository.

To make any progress on this front, African countries must consider power delegation or 'sacrificing' national sovereignty to make way for the 'Africa We Want' dream, which is based on functional imperatives. If the history of regionalism is any guide, this will be difficult, as clinging to sovereignty has stymied regional integration on the continent by prioritising overt nationalism over regional development.

Free movement within Africa, without corresponding regulatory measures to mitigate risks, is seen as a challenge rather than an opportunity

Conclusion

Free trade and the free movement of people are important for regional integration. They help to make economic activities and opportunities more accessible.

The AfCFTA and Freedom of Movement Protocol frameworks have great potential as conduits for long-term development in Africa. Commitment to implementing both frameworks concurrently would yield economic and development gains for the continent. However, the current dissonance between the adoption of AfCFTA and the Freedom of Movement Protocol is symptomatic of the continent's ongoing policy development and implementation crisis.

A promising path to realising the 'Africa we want' dream requires African states to increase their efforts on two fronts. First, the accelerated ratification, adoption and implementation of mobility regime regulations, policies and protocols at the REC and AU levels. This would inadvertently make AfCFTA Africa's economic and development game-changer by capitalising on migration gains. Second, a free mobility regime necessitates supportive infrastructure such as digital identification systems, labour market information systems, migrants' hosting costs, and a cost-sharing framework for integration.

Facilitating legal pathways to mobility requires African countries to take a holistic approach to migration management rather than a tunnel view based on protecting state sovereignty and the unfounded fear of dilution of border sanctity. By ratifying the Freedom of Movement Protocol, African states would address the need for improved legal mobility, more lenient visa requirements, and the protection of migrants' rights and safety regardless of their migration status.



DIGITAL ID SYSTEMS CAN
ADDRESS CHALLENGES TO
FREE MOVEMENT

Chart 2: Freedom of Movement Protocol – signatures and ratifications

No	Country	Date of signature	Date of accession	Date deposited
1	Algeria	-	-	-
2	Angola	21/03/2018	-	-
3	Benin	-	-	-
4	Botswana	-	-	-
5	Burkina Faso	21/03/2018	-	-
6	Burundi	-	-	-
7	Cameroon	-	-	-
8	Central African Republic	21/03/2018	-	-
9	Cabo Verde	-	-	-
10	Chad	21/03/2018	-	-
11	Côte d'Ivoire	18/04/2018	-	-
12	Comoros	21/03/2018	-	-
13	Congo	21/03/2018	-	-
14	Djibouti	21/03/2018	-	-
15	Democratic Republic of Congo	21/03/2018	-	-
16	Egypt	-	-	-
17	Equatorial Guinea	21/03/2018	-	-
18	Eritrea	-	-	-
19	Eswatini	-	-	-
20	Ethiopia	-	-	-
21	Gabon	21/03/2018	-	-
22	Gambia	21/03/2018	-	-
23	Ghana	21/03/2018	-	-
24	Guinea-Bissau	-	-	-
25	Guinea	21/03/2018	-	-
26	Kenya	21/03/2018	-	-
27	Libya	-	-	-
28	Lesotho	21/03/2018	-	-
29	Liberia	21/03/2018	-	-
30	Madagascar	-	-	-
31	Mali	21/03/2018	03/05/2019	29/05/2019
32	Malawi	21/03/2018	-	-
33	Morocco	-	-	-
34	Mozambique	21/03/2018	-	-
35	Mauritania	-	-	-
36	Mauritius	-	-	-
37	Namibia	-	-	-
38	Nigeria	-	-	-
39	Niger	21/03/2018	05/07/2019	08/07/2019
40	Rwanda	21/03/2018	25/05/2018	26/05/2018
42	Sahrawi Arab Democratic Republic	-	-	-
43	Senegal	21/03/2018	-	-
44	Seychelles	-	-	-
45	Sierra Leone	01/07/2018	-	-
46	Somalia	21/03/2018	-	-
41	South Africa	-	-	-
47	South Sudan	21/03/2018	-	-
48	Sao Tome and Principe	21/03/2018	28/05/2019	27/06/2019
49	Sudan	21/03/2018	-	-
50	Tanzania	21/03/2018	-	-
51	Togo	21/03/2018	-	-
52	Tunisia	-	-	-
53	Uganda	21/03/2018	-	-
54	Zambia	-	-	-
55	Zimbabwe	21/03/2018	-	-
Total Countries: 55		of signature: 32	of ratification: 4	of deposit: 4

Source: African Union, Status List (as at 31 October 2022)

Notes

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- 28 Key informant interview, 22 September 2022.
- 29 Key informant interview, 12 September 2022.
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- 31 Key informant interview, 6 October 2022.

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