The Rise and Rise of Trade and Investment on the African Continent: Morocco and Egypt Finalize a New Free Trade Agreement

Thomas R. Snider - Partner, Head of Arbitration - Arbitration / Construction and Infrastructure / Mediation
- Dubai International Financial Centre

Ingy Darwish - Senior Associate - Corporate / Mergers and Acquisitions / Venture Capital and Emerging Companies
- Cairo

Laureen Fredah

L.Fredah@tamimi.com - Dubai International Financial Centre

For a long time, Africa has been referred to as the sleeping giant in the world of trade and investment. But with greater political stability and an economy that has grown at a faster pace than most of the rest of the world, the giant may not be asleep any more. As of 2021, Africa's population was 1.3 billion with a collective GDP of USD 2.687 trillion. The two North African countries of Egypt and Morocco have been key contributors in this regard with Egypt having a GDP of USD 396.33 billion in 2021 and Morocco having a GDP worth USD 126.04 billion the same year. The economic punch of the continent is set to accelerate with the much anticipated and widely discussed African Continental Free Trade Agreement (AfCFTA) under which trade commenced on 1 January 2021. AfCFTA will cover all 55 member states of the African Union and will be the world's largest free trade area since the formation of the World Trade Organization in terms of numbers of participating countries.

However, AfCFTA will not be the only agreement impacting trade on the African continent. Most African countries belong to more than one regional economic community and are a party to multiple bilateral free trade agreements. The result is that different rules of origin, tariffs, standards, and dispute resolution procedures, among other factors, apply to the same goods, and this can pose challenges to the manner in which the AfCFTA will be applied. Article 19(2) of the AfCFTA Agreement allows for overlapping membership of states but ensures that the standards provided for in the AfCFTA set a floor. Article 19(2) provides in this regard that "state Parties that are members of other regional economic communities, regional trading arrangements and custom unions, which have attained among themselves higher levels of regional integration than under this Agreement, shall maintain such higher levels among themselves."

Morocco and Egypt leading the way the Agadir way

It was reported in January 2022 that the negotiations between Egypt and Morocco around their free trade deal had resulted in an agreement (the "Egypt-Morocco FTA"). The Egypt-Morocco FTA comes as a result of the Agadir Agreement, which is a broader free trade agreement between Egypt, Jordan, Morocco, and Tunisia. The Agadir Agreement was launched in May 2001, signed in Rabat in February 2004, and came into force in March 2007. In 2016, after six years of inactivity, the agreement was revived. The recent agreement between Egypt and Morocco is in line with Article 6 of the Agadir Agreement.

Article 6 covers rules of origination and requires that the rules within the country of origin of the materials and merchandise produced should be in accordance with the Pan European Protocol and any future alterations to it. Moreover, accompanying products with a local base and source, exported from one member states to another, will be a source certificate from the responsible official agency within the country of origin, in accordance with the special rules of origination found in this agreement. The commission (exterior ministers of the Member States) will periodically review possible alterations to this protocol to ensure the proper application of the rules of origination.

Additionally, the Moroccan Institute for Normalization (IMANOR) will be responsible for certifying and ensuring that Moroccan factories and Moroccan-produced goods adhere to various international standards. Egypt has agreed to use IMANOR's standards and let its approved products into its markets. As details of this deal are not yet readily available, the obligations on Egypt are still not published or defined. However, one of the practical impacts of these developments that has been reported is that Renault cars manufactured in Tangier will now be able to enter the Egyptian market without paying any custom fees.

Not Morocco's first rodeo – what lessons can be learned here?

The signing of the Egypt-Morocco FTA comes on the heels of reported disgruntlements with the free trade agreement between Morocco and Turkey (the "Morocco-Turkey FTA"). The Morocco-Turkey FTA was signed in 2004 and entered into force in 2006, eliminating various barriers to trade such as tariffs and addressing other aspects of trade, including intellectual property rights and state monopolies. However, concerns have arisen in Morocco, which has reportedly lost USD 2 billion annually through this trade deal with Turkey and the Turkish textile industry costing Morocco 44,000 jobs in 2017. The particular concerns have ranged from the importation of hot-rolled steel to importation of textile garments and expansion of department stores from Turkey. For example, specific concerns have arisen in Morocco in relation to the Turkish discount store chain Bim, which has seen rapid expansion in Morocco where it currently operates more than 500 stores across the country, making Morocco the company's second largest market after its home country of Turkey.

As with the impact of trade agreements on the local economy that has been seen elsewhere, some Moroccans have attributed the decline of Morocco's small stores to the rapid spread of large foreign vendors in small traditional towns and neighborhoods. As a result of the concerns raised by the Morocco-Turkey FTA, Morocco's government took measures to limit the prevalence of imported Turkish products in the country and, in October 2020, Morocco's Council of Ministers approved an amendment to the Morocco-Turkey FTA imposing custom duties on certain Turkish products. These amendments, however, faced push back from Turkey, which objected to Morocco's imposition of anti-dumping measures on certain hot-rolled steel from Turkey and filed a complaint against Morocco before the World Trade Organization. While the anti-dumping measures by Morocco were later withdrawn, Morocco was able to renegotiate other amendments to the Morocco-Turkey FTA aimed at imposing customs duties for a five-year period on certain Turkish industrial products to which Turkey agreed.

Given this background, Morocco may now be more cautious in signing new FTAs. Although details concerning the Egypt-Morocco FTA so far are scarce, the inclusion of the use of IMANOR's standards, among other things, should be a positive development for Morocco.

Conclusion

Africa is continuing to rise in terms of trade and investment. Despite the AfCFTA coming on the cusp of the COVID-19 pandemic, Africa's economy is continuing to grow. Most countries on the continent are no longer seeking trade partners only from outside the continent but are now turning to their next-door and nearby neighbors for trade opportunities. The Morocco-Egypt FTA is one good example. As the details of this agreement are still not readily available, it is left to be seen how both countries will benefit from this development, but the early indicators are positive.

For further information, please contact [Thomas R. Snider]() ([T.Snider@tamimi.com]()) or [Ingy Darwish]() ([I.Darwish@tamimi.com]()).