

Table 6 - Applicable tariffs under existing agreements and AfCFTA

Tariff line liberalized under existing agreement between Parties	Tariff line liberalized under AfCFTA	Applicable tariff?
Yes	Yes	As per AfCFTA, with transition period as per existing agreement (otherwise the AfCFTA would be method to delay implementation of already agreed tariff concessions)
Yes	No	As per existing agreement for existing agreement between Parties. For other African countries, MFN tariff applies.
No	No	MFN tariff
No	Yes	As per AfCFTA

would initially make offers to countries outside existing preferential arrangements.

4.2 Most Favoured Nation treatment

Article 37 of the Treaty establishing the African Economic Community, also referred to as the Abuja Treaty¹⁰ provides that

i) The best treatment provided to an African country should be accorded to all African countries

ii) If African countries provide a tariff preference to a non-African country, such tariff preference must be provided to all African countries:

Article 37 - Most Favoured Nation Treatment

1. Member States shall accord one another, in relation to intra-community trade, the most-favoured-nation treatment. In no case shall tariff concessions granted to a third State pursuant to an agreement with a Member State be more favourable than those applicable pursuant of this Treaty.

2. The text of the agreements referred to in paragraph 1 of this Article shall be forwarded by the Member States parties thereto, through the Secretary-General, to all the other Member States for their

information.

3. No agreement between a Member State and a third State, under which tariff concessions are granted, shall be incompatible with the obligations arising out of this Treaty.

This legal commitment was also incorporated as one of the principles for the AfCFTA negotiations under MFN treatment, agreed by Ministers in 2016¹¹:

"Member States shall accord one another, in relation to intra-community trade, the most favoured nation treatment. Any more favourable trade concession accorded to third parties shall be granted to other Member States."

Strict application of this rule would be difficult for various countries. For instance, Tunisia and Egypt have liberalized all their imports from Jordan, a third/non-African country (see Table 7). This implies that according to Article 37.1 of the Abuja Treaty, Egypt and Tunisia must give duty free access to imports from all African countries, without requiring reciprocity from these countries.

Against this backdrop, the Agreement establishing the AfCFTA contains an article titled 'Continental Preferences' which essentially reduced the legal commitment contained in Article 37.1 of the Abuja Treaty:

Table 7 - Share of tariff lines and imports that remain dutiable for the 3 African countries party to the Agadir Agreement

Country	Partner (Country where imports originate)	Share of tariff lines that remain dutiable (%)	Share of imports (value) that remains dutiable (%)
Tunisia	Egypt	0	0
Tunisia	Jordan	0	0
Tunisia	Morocco	0	0
Morocco	Tunisia	8.7	2.7
Morocco	Jordan	8.7	2.2
Morocco	Egypt	8.7	2.4
Egypt	Jordan	0	0
Egypt	Morocco	0	0
Egypt	Tunisia	0	0