Table 5 - Developing country FTAs - Share of imports (value) that remain dutiable (%)

Year of entry into force	Developing country FTAs notified to WTO under Enabling Clause	Developing country FTAs notified to WTO under Article	All developing country FTAs notified to WTO
2007	8.8		8.8
2008	50.4		50.4
2009	61.8	18.1	35.6
2010	22.4	5	20.8
2011	30.7	7.8	15.4
2012		4.3	4.3
2013		7.8	7.8
2015		16.8	16.8
2016		13.4	13.4
Average for all FTAs	**25.3**	**12.1**	**18.7**

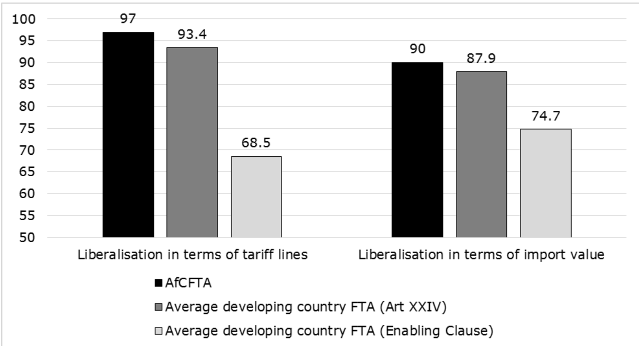
Source: compiled on the basis of WTO Factual Presentations

tariff lines. For more recent FTAs, i.e. those that entered into force 2012 or later this percentage is even higher (95-97%).

The share of imports (value) that remains dutiable for an average developing country FTA notified under Article XXIV is 12.1%, i.e. a liberalization of around 88% in terms of value. In contrast to liberalization in terms of tariff lines (the number of different goods for which tariffs are eliminated), there is no obvious downward trend in the liberalization as measured in terms of value. (See Table 5.)

In conclusion, based on the levels of liberalization of implemented developing country FTAs, the AfCFTA tariff modalities are quite ambitious.

Graph 2 – Tariff liberalisation under AfCFTA tariff modalities and developing country FTAs (%)



4. Some legal issues with the AfCFTA

4.1 Relationship between AfCFTA and African regional trade agreements

Article 19 of the Agreement establishing the AfCFTA regulates the relationship with the RECs:

Article 19

Conflict and Inconsistency with Regional Agreements

In the event of any conflict and inconsistency between this Agreement and any regional agreement, this Agreement shall prevail to the extent of the specific inconsistency, except as otherwise provided in this Agreement.

Notwithstanding the provisions of Paragraph 1 of this Article, 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.

The implication of the first paragraph is that, in case of inconsistencies, the provisions of the AfCFTA will apply. Nevertheless, the second paragraph provides for an exemption from this general rule in cases of 'higher levels of regional integration' for members of 'regional economic communities, regional trading arrangements and custom unions'.

How would this function in the area of tariffs? It would mean that a tariff eliminated for a product under an existing agreement will apply regardless of what is agreed in the AfCFTA tariff negotiations. This also includes the associated phase out periods (see Table 6).

In order to reduce complexity, there are several choices. The first option would be to only provide tariff concessions under AfCFTA for countries with whom no existing preferential arrangement exists. The second option would be to integrate the preferences under existing agreements into the AfCFTA. In the second option, a country could effectively be liberalizing more than what is required under the modalities, as it would have to provide preferences under AfCFTA as well as tariff concessions under existing agreements not included in AfCFTA. It is therefore expected that African countries/customs unions

本文档由 funstory.ai 的开源 PDF 翻译库 BabelDOC v0.5.10 (http://yadt.io) 翻译，本仓库正在积极的建设当中，欢迎 star 和关注。

表5 - 发　展中国家自由贸易协定 - 仍需缴纳关税的进口份额（价值）（%）

Year of entry into force	发展中国家自由贸易协定根据世界贸易组织通知授权条款	发展中国家自由贸易协定通知世界贸易组织条款	所有发展中国家 自由贸易协定 通知-至世界贸易组织
2007	8.8		8.8
2008	50.4		50.4
2009	61.8	18.1	35.6
2010	22.4	5	20.8
2011	30.7	7.8	15.4
2012		4.3	4.3
2013		7.8	7.8
2015		16.8	16.8
2016		13.4	13.4
所有自由贸易协定的平均值	**25.3**	**12.1**	**18.7**

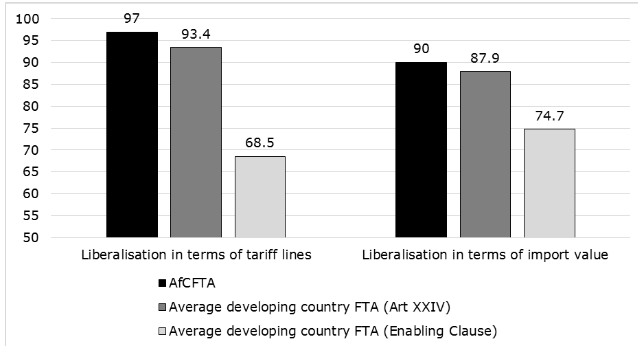
来源: 根据世界贸易组织事实陈述编制

税目。对于较新的自由贸易协定，即2012年或之后生效的协定，这一比例甚至更高（95-97%）。

根据第二十四条通报的发展中国家自贸协定平均仍有12.1%的进口（价值）需缴纳关税，即价值层面约88%的自由化。与税目自由化（取消关税的商品种类数量）相比，以价值衡量的自由化并未呈现明显下降趋势。（见表5。）

综上所述，根据已实施的发展中国家自由贸易协定的自由化水平，非洲大陆自由贸易区的关税模式相当雄心勃勃。

图2 – 非洲大陆自由贸易区关税模式与发展中国家自由贸易协定下的关税自由化（%）



4. 非洲大陆自由贸易区的若干法律问题

4.1 非洲大陆自由贸易区与非洲区域贸易协定的关系

本协定第十九条规范了与区域经济共同体的关系：

第十九条

与区域协定的冲突与不一致

若本协定与任何区域协定之间存在冲突与不一致，除本协定另有规定外，在不一致的特定范围内应以本协定为准。

尽管有本条款第1款的规定，作为其他区域经济共同体、区域贸易安排及关税同盟成员国的成员国，若已在其内部实现比本协定更高水平的区域一体化，则应在彼此间维持该更高水平。

第一段的含义是，若存在不一致之处，将适用非洲大陆自由贸易区的规定。然而，第二段为'区域经济共同体、区域贸易安排和关税同盟'成员在'更高层次区域一体化'情形下提供了这一一般规则的豁免。

这在关税领域将如何运作？这意味着根据现有协定已取消某产品关税的情况下，无论非洲大陆自由贸易区关税谈判达成何种协议，该关税取消仍将适用。这还包括相关的逐步取消期（见表6）。

为降低复杂性，有几种选择。第一种选择是仅对不存在现有优惠安排的国家提供非洲大陆自由贸易区下的关税减让。第二种选择是将现有协定下的优惠整合到非洲大陆自由贸易区中。在第二种选择下，一个国家实际上可能比模式要求的开放更多，因为它不仅需要提供非洲大陆自由贸易区下的优惠，还需提供未纳入该协定的现有协定下的关税减让。因此预计非洲国家/关税同盟