**Table 8—Number of tariff negotiations (permutations)**

**Table 8.1—Scenario 1: ECOWAS, EAC and SACU negotiate collectively, the rest individually**

| Entity | Number of States |
|---|---|
| Africa | 55 |
| ECOWAS | 15 |
| EAC | 6 |
| SACU | 5 |
| Subtotal | 26 |
| Other countries negotiating as individual States | 29 (55-26) |

| | |
|---|---|
| **Number of negotiations** | • Between customs unions and member states – 3 x 29 = 87<br>• Between member states - (29 x 28)/2 = 406<br>• Between customs unions – (3 x 2)/2 = 3<br>Total number of negotiations = 87 + 406 + 3 = 496 |

*Note*: The total number of links is equal to 55 x 54 (2,970), but a bilateral negotiation has 2 parties. So if all African countries would negotiate individually, the maximum number of negotiations would be 55 x 54 / 2 = 1,485.

**Table 8.2—Scenario 2: ECOWAS, EAC, SACU and CEMAC negotiate collectively, the rest individually**

| Entity | Number of States |
|---|---|
| Africa | 55 |
| ECOWAS | 15 |
| EAC | 6 |
| SACU | 5 |
| CEMAC (not certain) | 6 |
| Subtotal | 32 |
| Other countries negotiating as individual States | 23 |
| **Number of negotiations** | • Between customs unions and member states – 4 x 23 = 92<br>• Between member states – (23x22)/2 = 253<br>• Between customs unions - (4 x 3)/2 = 6<br>Total number of negotiations = 92 + 253 + 6= 351 |

• Countries or customs union might decide not to make offers to countries with whom they already have a preferential trade agreement. For instance, EAC and Egypt are already negotiating tariff preferences under the umbrella of the Tripartite FTA. Tunisia and Morocco already have an existing FTA.

• Countries might consider to make common offers (for instance in Central Africa) or to align with an offer of another country or customs union (possibly Mauritania with ECOWAS).

### *5.2 The treatment of LDCs in customs unions*

According to the modalities, LDCs and non-LDCs have different timeframes for implementation but in a customs union both LDCs and non-LDCs in that customs union must apply the same timeframes for implementation, if a common external tariff is to be maintained.

The main options that have been discussed at various occasions by negotiators for customs unions with LDCs are:

A. Apply the shorter timeframe for implementation (5 years for 'Non-Sensitive' Products) applicable to non-LDCs under the AfCFTA tariff negotiation modalities to all countries which are part of the customs union.

B. Apply the longer timeframe for implementation applicable to LDCs (10 years for 'Non-Sensitive' Products) to all countries which are part of the customs union.

C. Apply a timeframe for implementation somewhere







**表8—关税谈判数量（排列组合）**

**表8.1—Scen　场景1：西非国家经济共同体、东非共同体和南部非洲关税同盟集体谈判，其余单独谈判**

| 实体 | 国家数量 |
|---|---|
| 非洲 | 55 |
| 西非国家经济共同体 | 15 |
| EAC | 6 |
| SACU | 5 |
| 小计 | 26 |
| 作为独立国家谈判的其他国家 | 29 (55-26) |

| | |
|---|---|
| **谈判数量** | • 关税同盟与成员国之间 – 3 x 29 = 87<br>• 成员国之间 - (29 x 28)/2 = 406<br>• 关税同盟之间 – (3 x 2)/2 = 3<br>谈判总数 = 87 + 406 + 3 = 496 |

注：链接总数为55 x 54（2,970），但一项双边谈判涉及2个参与方。因此，若所有非洲国家单独谈判，最大谈判数量为55 x 54 / 2 = 1,485。

**表8.2—场景　情景2：西非国家经济共同体、东非共同体、南部非洲关税同盟和中非经济与货币共同体集体谈判，其余国家单独谈判 ly**

| 实体 | 国家数量 |
|---|---|
| 非洲 | 55 |
| 西非国家经济共同体 | 15 |
| EAC | 6 |
| SACU | 5 |
| 中非经济与货币共同体 (not certain) | 6 |
| 小计 | 32 |
| 其他以个体国家身份进行谈判的国家<br>ual States | 23 |
| **谈判数-量** | • 关税同盟与成员国之间 – 4 x 23 = 92<br>• 成员国之间 – (23x22)/2 = 253<br>• 关税同盟之间 - (4 x 3)/2 = 6<br>谈判总数 = 92 + 253 + 6= 351 |

• 国家或关税同盟可能决定不向已与其签订优惠贸易协定的国家提出报价。例如，东非共同体和埃及已经在三方自由贸易区的框架下就关税优惠进行谈判。突尼斯和摩洛哥已经有一个现有的自由贸易协定。

• 各国可考虑提出共同要约（例如在中非），或与其他国家或关税同盟的要约保持一致（可能是毛里塔尼亚与西非国家经济共同体）。

### *5.2* 最不发达国家在关税同盟中的待遇

根据模式，最不发达国家与非最不发达国家有不同的实施时间框架，但在一个关税联盟中，该联盟内的最不发达国家与非最不发达国家联盟必须采用相同的实施时间框架，以维持共同对外关税。

谈判人员在多次场合讨论过的涉及最不发达国家的关税同盟主要选项包括：

A. 对关税同盟所有成员国采用非洲大陆自由贸易区关税谈判模式中适用于非最不发达国家的较短实施时间框架（'非敏感产品'为5年）。

B. 对关税同盟所有成员国采用适用于最不发达国家的较长实施时间框架（'非敏感产品'为10年）。

C. 在某个地方设定实施的时间框架

between 5 and 10 years for all countries which are part of the customs union.

SACU members have indicated a preference for option A, whereas others have made suggestions along the lines of either option B or C. The EAC, which is entirely composed of LDCs except for Kenya appears to have a preference for option B. Option B also implies that non-LDCs would benefit from a longer implementation period. In the negotiations, some have argued that this would be against the modalities and asserted that only Option A would be in full conformity with the modalities – the modalities provide for minimum requirements and permit Member States to do more. The suggestion has been made that affected customs unions should establish or strengthen an internal compensation mechanism for the LDCs.

The fact remains that option A is likely to be unacceptable for several LDCs within customs unions. The 7th Meeting of AU Trade Ministers noted 'that there were divergent views on this matter and has directed the Senior Trade Officials (STO) to authorise the Negotiating Forum (NF) to find a practical solution that does not impact on the adopted Modalities.'[16] If there remains difficulties with the 3 options, other solutions beyond these three options could be explored. Alternatives could include:

- Interpretation of the conditions under which a customs union could be considered an LDC under the AfCFTA tariff negotiation modalities
- Allow a longer implementation period for some not all tariff lines for countries in the customs union, for tariff lines of particular interest to LDCs
- Allow for certain carve-outs that apply to LDCs within the customs union
- Allowing reciprocity in timeframes for implementation between negotiating partners

• *Interpretation of the conditions under which a customs union could be considered an LDC under the AfCFTA tariff negotiation modalities.* In this scenario, the customs union would either be considered an LDC or non-LDC based on an objective and verifiable indicator.

The most straightforward indicator would be the number of LDCs in a customs union. In a customs union where LDCs are in the majority, the entire customs union could be considered an LDC. In 2011, AU Trade Ministers introduced the concept of an LDC customs union in a proposal for a Common and Enhanced Trade Preference System, which suggested that OECD countries should extend LDC preferences to LDC customs unions.[17]

Within the WTO, there is a precedence for providing preferential treatment to all countries within a regional trade agreement (which includes customs unions) where the majority of members are LDCs. In the 2003 General Council Decision on the Implementation of paragraph 6 of the Doha Declaration on the TRIPS Agreement and public health, a pharmaceutical product produced or imported under a compulsory licence can be exported to all countries within an RTA where at least half of the current membership is made up of LDCs (and not only to the country to which the compulsory license applies).[18]

Another indicator could be the share of the extra-customs union imports by LDCs in total extra-customs unions imports (from African countries).

Let's first look at ECOWAS. Based on import figures for the years 2015-2017, ECOWAS countries imported USD 9.4 billion from other African countries, of which USD 6.2 billion was on account of regional trade (in other words, for ECOWAS, 2/3 of intra-African trade was trade within the customs union). This means that extra-ECOWAS imports from African countries amounted to USD 3.1bln. The 4 non-LDCs were responsible for USD 2bln, which left USD 1.1 bln for the LDCs in ECOWAS. Based on this data, the majority (64%) of extra-ECOWAS imports from Africa was done by non-LDCs. (See Table 9.)

This applies for Africa in general, but also for ECOWAS imports from specific negotiating partners. For instance, only 13% of total ECOWAS imports from the EAC was by the LDCs in ECOWAS and almost half (46%) in the case for imports from Morocco. (See Table 10.)

How does the situation look like for the EAC? In the

**Table 9 – Share of ECOWAS LDCs' extra-ECOWAS imports from Africa**

| ECOWAS Import from | ECOWAS total | ECOWAS non LDCs | ECOWAS LDCs | Share LDCs |
|---|---|---|---|---|
| Africa (including ECOWAS) | 9,364,853 | 4,299,928 | 5,064,925 | 54% |
| ECOWAS | 6,240,208 | 2,300,215 | 3,939,993 | 63% |
| Africa excluding ECOWAS (Extra-ECOWAS import) | 3,124,645 | 1,999,713 | 1,124,933 | **36**% |

*Note*: ECOWAS non-LDCs are Cape Verde, Cote d'Ivoire, Ghana and Nigeria

*Source*: calculations based on import data from ITC TradeMap, average 2015-2017 (USD Thousands)





所有加入关税同盟的国家将在5到10年内完成。

南部非洲关税同盟成员国倾向于选择选项A，而其他国家则提出了类似选项B或C的建议。东非共同体（除肯尼亚外全由最不发达国家组成）似乎更偏好选项B。选项B还意味着非最不发达国家将受益于更长的实施期。在谈判中，有人提出这与模式相悖，并坚称只有选项A能完全符合模式——模式规定了最低要求并允许成员国采取更多措施。建议受影响的关税同盟应为最不发达国家建立或加强内部补偿机制。

事实是，选项A对关税同盟内的多个最不发达国家可能难以接受。7th 非洲联盟贸易部长会议指出'各方对此问题存在分歧，并指示高级贸易官员（STO）授权谈判论坛（NF）寻找不影响已通过模式的务实解决方案。'[16] 若这三个选项仍存在困难，可探索其他替代方案。备选方案可能包括：

- 解释在非洲大陆自由贸易区关税谈判模式下，关税同盟在何种条件下可被视为最不发达国家
- 对关税同盟内国家，针对最不发达国家特别关注的关税税目（非全部税目），允许更长的实施期
- 允许适用于关税同盟内最不发达国家的特定例外条款
- 允许谈判伙伴之间在实施时间框架上互惠

• 解释在非洲大陆自由贸易区关税谈判模式下，关税同盟在何种条件下可被视为最不发达国家。在此情境下，该关税同-将根据客观且可验证的指标被视为最不发达国家或非最不发达国家。

最直接的指标将是关税同盟中最不发达国家的数量。在一个最不发达国家占多数的关税同盟中，整个关税同盟可被视为最不发达国家。2011年，非洲联盟贸易部长在《共同与强化贸易优惠体系》提案中提出了最不发达国家关税同盟的概念，建议经合组织国家将最不发达国家优惠待遇延伸至最不发达国家关税同盟。[17]

在世界贸易组织内部，存在为区域贸易协定（包括关税同盟）中大多数成员为最不发达国家的所有国家提供优惠待遇的先例。2003年《关于执行多哈宣言第六段与贸易有关的知识产权协定和公共卫生问题的总理事会决定》中规定，根据强制许可生产或进口的药品可出口至当前成员至少半数由最不发达国家组成的区域贸易协定内所有国家（而不仅限于强制许可适用的国家）。[18]

另一个指标可能是最不发达国家在关税同盟外进口总额（来自非洲国家）中所占的关税同盟外进口份额。

让我们先看看西非国家经济共同体。根据2015-2017年的进口数据，西非国家经济共同体国家从其他非洲国家进口了94亿美元，其中62亿美元是区域贸易（换句话说，对西非国家经济共同体而言，非洲内部贸易的三分之二是在关税同盟内进行的）。这意味着西非国家经济共同体从非洲国家的关税同盟外进口额为31亿美元。4个非最不发达国家贡献了20亿美元，剩下的11亿美元由西非国家经济共同体内的最不发达国家完成。基于这些数据，西非国家经济共同体从非洲的关税同盟外进口大部分（64%）由非最不发达国家完成。（参见表9。）

这一情况普遍适用于非洲，也适用于西非国家经济共同体从特定谈判伙伴的进口。例如，西非国家经济共同体从东非共同体的总进口中，仅有13%是由其内部的最不发达国家完成的；而从摩洛哥进口的案例中，这一比例接近半数（46%）。（参见表10。）

东非共同体的现状如何？在

**表9 – 西非国家经济共同体最不发达国家从非洲的共同体外进口份额**

| 西非国家经济共同体进口 from | 西非国家经济共同体总计 | 西非国家经济共同体非最不发达国家 | 西非国家经济共同体最不发达国家 | 最不发达国家份额 |
|---|---|---|---|---|
| 非洲（包括西非国家经济共同体） | 9,364,853 | 4,299,928 | 5,064,925 | 54% |
| 西非国家经济共同体 | 6,240,208 | 2,300,215 | 3,939,993 | 63% |
| 非洲（不含西非国家经济共同体（超-西非国家经济共同体进口） | 3,124,645 | 1,999,713 | 1,124,933 | **36**% |

注：西非国家经济共同体非最不发达国家包括佛得角、科特迪瓦、加纳和尼日利亚数据来源：根据国际贸易中心贸易地图的进口数据计算，2015-2017年平均（千美元）