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**PROTOCOL TO THE  
AGREEMENT ESTABLISHING THE AFRICAN CONTINENTAL FREE  
TRADE AREA  
ON COMPETITION POLICY**

**DRAFT**



**Creating One African Market**

**PROTOCOL TO THE AGREEMENT ESTABLISHING THE AFRICAN  
CONTINENTAL FREE TRADE AREA  
ON COMPETITION POLICY**

**DRAFT**

## **PREAMBLE**

**We, Member States of the African Union,**

**RECALLING** Decision Ext/Assembly/AU/Dec.1(X) of the Assembly of Heads of State and Government during its 10<sup>th</sup> Extraordinary Session held in Kigali, Rwanda, on 21 March 2018 adopting the Agreement Establishing the African Continental Free Trade Area;

**HAVING REGARD to** Article 7 (1)(c) of the Agreement Establishing the African Continental Free Trade Area which requires Member States to enter into negotiations on competition policy;

**DESIROUS** to ensure that competition policy is a central element in promoting trade, supporting industrialization, innovation, sustainable economic development and enhancing the overall welfare of the people of Africa;

**RECOGNISING** that anti-competitive and other restrictive business practices constitute an obstacle to the achievement of a single African market underpinned by progressive trade liberalization, market efficiency and inclusive growth;

**TAKING NOTE** of the need for closer cooperation at national, regional and continental levels in the implementation of their respective competition laws to address the harmful effects of anti-competitive and other restrictive business practices;

**CONSCIOUS** of the central role that national and regional competition agencies will continue to play in promoting fair competition and inclusive growth in Intra Africa trade and seeking to support their work through the creation of appropriate institutional mechanisms at the continental level;

**COGNISANT** of the importance of promoting national competition laws and institutions based on cooperation and harmonization of national laws to achieve uniformity in the interpretation and application of competition law, policy and enforcement; and

**DESIRING** to protect consumers on the African continent from anti-competitive business practices;

**RECALLING** Agenda 2063, Abuja Treaty Establishing the African Economic Community, the AfCFTA Agreement and the relevant Assembly decisions,

which provide the basis for an integrated and unified African continental competition regime

**HAVE AGREED AS FOLLOWS:**

**PART I**  
**DEFINITIONS, OBJECTIVES AND SCOPE**

**Article 1**  
**Definitions**

For the purposes of this Protocol, the following definitions shall apply:

- a) **“AfCFTA Agreement”** means, the Agreement establishing the African Continental Free Trade Area;
- b) **“Agreement”** means, when used in relation to a prohibited practice, *inter alia* a contract, arrangement or understanding, whether oral or in writing and whether or not legally enforceable;
- c) **“Assembly”** means the Assembly of Heads of State and Government of the African Union;
- d) **“Authority”** means the AfCFTA Competition Authority;
- e) **“Board”** means the Board of Commissioners of the AfCFTA Competition Authority;
- f) **“Committee”** means the Committee on Competition Policy;
- g) **“Concerted Practices”** means cooperative or coordinated conduct between undertakings, achieved through direct or indirect contact, that replaces their independent action, but which does not amount to an Agreement;
- h) **“Conduct with a Continental Dimension”** means any conduct, practice, merger or Agreement that has significant effect on competition in a market of at least two State Parties that do not share the same jurisdiction of the existing regional economic communities;
- i) **“Council of Ministers”** means the Council of African Ministers of State Parties responsible for trade;
- j) **“Dominant position”** means a position of market power exercised by an undertaking, whether by itself or together with other undertakings, that gives the undertaking concerned the ability to unilaterally influence prices, output or any other competitive element, or to behave

to an appreciable extent independently of its competitors, customers or suppliers;

- k) **“Gatekeeper”** means an undertaking that has a significant impact on the Market, operates a core platform service that serves as an important gateway for business users to reach end-users, enjoys an entrenched and durable position in its operations or it is foreseeable that it will enjoy such a position in the near future;
- l) **“Market”** means the African Continental Free Trade Area (AfCFTA) market or a substantial part thereof, where exchange or substitution of goods or services takes place between suppliers and buyers of those goods, services and technologies;
- m) **“Merger and Acquisition”** means the direct or indirect acquisition or establishment of a controlling interest by one or more persons in the whole or part of the business of another undertaking;
- n) **“Person”** means a natural or juridical person and includes firms, partnerships, associations, organizations, and any other body of persons involved in the production of, or the trade in goods, or the provisions of services.
- o) **“Protocol”** means the Protocol to the Agreement Establishing the AfCFTA on Competition Policy;
- p) **“Regulation”** means an implementation text to be developed by the Council of Ministers;
- q) **“State Party”** means a Member State that has ratified or acceded to the Protocol and for which the Protocol is in force;
- r) **“Trade”** means any business, industry, profession or occupation relating to the supply, or acquisition of goods, services or technologies;
- s) **“Tribunal”** means the AfCFTA Competition Tribunal;
- t) **“Undertaking”** means any private or public entity, including natural and legal persons and affiliated groups of companies under joint control, irrespective of their legal form, involved in the production of, or the trade in goods, or the provision of services;

## **Article 2 Objectives**

The objectives of this Protocol are to:

- a) provide for an integrated and unified African continental competition regime;
- b) enhance competition within the AfCFTA for improved market efficiency, inclusive growth, and the structural transformation of the African economies;
- c) ensure that gains from AfCFTA trade liberalization are not negated or undermined by anti-competitive practices;
- d) develop and strengthen the capacity of State parties to deal with anti-competitive business practices;
- e) provide a continental platform for research, information exchange, capacity building, training, consultation, cooperating, and coordinating on competition policy and law in Africa;
- f) promote economic integration and sustainable development in the AfCFTA Market; and
- g) manage the interrelationships of competition regimes and sectoral regulatory laws at the national, regional, and continental levels.

### **Article 3**

#### **Scope of Application**

1. The Protocol shall apply to the following:
  - a) all economic activities by persons or undertakings within or having significant effect on competition in the Market; and
  - b) conduct with continental dimension and having significant effect on competition in the Market.
2. The Protocol shall not apply to matters falling within the respective jurisdiction of the national competition authorities.
3. Pursuant to Article 19 of the AfCFTA Agreement, where there is a conflict between the provisions of this Protocol and regional agreements on competition laws, the provisions of this Protocol shall prevail.

### **Article 4**

#### **Exclusions**

The following conduct and practices are excluded from the scope of this Protocol:

- a) labour-related issues aimed at advancing the terms and conditions of employment; or
- b) collective bargaining Agreements on behalf of employees for the purpose of fixing terms and conditions of employment.

## **PART II**

### **ANTI-COMPETITIVE BUSINESS PRACTICES AND CONDUCT**

#### **Article 5**

##### **Anti-competitive Practices**

States Parties agree that the following practices contemplated in Article 3(1) of this Protocol are incompatible with the proper functioning of the Market:

- a) Agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which



have, as their object or effect, the prevention, restriction or distortion of competition in the Market;

- b) abuse by one or more undertakings of a dominant position in the Market ;
- c) mergers or acquisitions that are likely to prevent, restrict or distort competition in the Market, in particular, by giving rise to the creation or strengthening of a dominant position; and
- d) abuse of economic dependence and any other anti-competitive practices.

### **Article 6** **Prohibited Horizontal Business practices**

1. All Agreements, decisions by associations of undertakings or concerted practices by undertakings that are engaged in the Market as competitors or potential competitors, involving the following restrictive horizontal practices, are prohibited:
  - a) Agreements directly or indirectly fixing prices and trading conditions;
  - b) restraints on production or sale, including by quota or output restriction;
  - c) collusive tendering or bid-rigging;
  - d) Agreements, which result in market or customer allocation;
  - e) concerted refusal to purchase or supply; or
  - f) collective denial of access to an arrangement, or association, which is crucial to competition.
2. Any Agreement, decision by associations of undertakings or concerted practice between undertakings in a horizontal relationship other than those contemplated in paragraph 1 of this article is prohibited if it has the effect of distorting, preventing or restricting competition in the Market, unless a party to the Agreement, concerted practice, or decision can prove that any technological, efficiency or other pro-competitive gain resulting from it outweighs that effect.

3. This Article shall not apply where undertakings belong to a common undertaking and those undertakings are under joint control or where they are otherwise not able to act independently of each other.

## **Article 7**

### **Prohibited Vertical Business Practices**

1. The practice of minimum resale price maintenance is prohibited.
2. Notwithstanding paragraph 1, a supplier or producer may recommend the minimum resale price to the reseller of a good or service provided that:
  - a) the supplier or producer makes it clear to the reseller that the recommendation is not binding; and
  - b) if the product has its price stated on it, the words “recommended price” appear next to the stated price.
3. Any Agreement, decision by associations of undertakings or concerted practice between undertakings in a vertical relationship restricting passive sales is prohibited.
4. Any Agreement, decision by associations of undertakings or concerted practice between undertakings in a vertical relationship other than those contemplated under Article 7.1 and 7.3 is prohibited if it has the effect of distorting, preventing or restricting competition in the Market, unless a party to the Agreement, decision and/or concerted practice, can prove that any technological, efficiency or other pro-competitive, gain resulting from it outweighs that effect.

## **Article 8**

### **Exemptions**

1. Any Agreement, decision by associations of undertakings or concerted practice between undertakings specified in Article 6.2 and 7.4 may, upon application, be exempted from the application of this Protocol for a prescribed period, provided that parties can demonstrate that such is necessary to pursue certain legitimate goals for the public benefit and development of the Market. The exempted Agreements or conduct may include, but are not limited to:
  - a) cooperation on research and development;
  - b) joint-ventures intended to achieve economic development;

- c) measures to promote sustainable development, growth, transformation, or stability of any industry;
  - d) measures fostering competitiveness and efficiency gains that promote employment or industrial expansion; and
  - e) activities of professional associations designed to develop or enforce professional standards of competence reasonably necessary for the protection of the public.
2. Upon application for exemption by an undertaking(s) or an association of undertakings, the Authority shall:
- a) grant the exemption;
  - b) grant the exemption with such conditions as considered appropriate; or
  - c) deny the exemption application.

**Article 9**  
**Abuse of a dominant position**

1. The determination for dominance in a market may be based on:
- a) market share to be determined in a regulation and level of concentration; or
  - b) market power considerations including barriers to entry, countervailing power, the level of actual or potential competition in terms of number of competitors, production capacity and product demand or the history of competition and rivalry between competitors.
2. Any abuse by an undertaking or a group of undertakings of a dominant position within the Market shall be prohibited insofar as it prevents, restricts or distorts competition or likely prevents, restricts and distorts competition in the Market if it, among others:
- a) eliminates or restricts or is likely to eliminate or restrict any other undertaking(s) from the Market;
  - b) directly or indirectly imposes unfair purchase or selling prices or other restrictive terms or conditions;
  - c) sets prices below cost;

- d) limits the production of goods or services for the Market to the detriment of consumers;
- e) makes the conclusion of an Agreement subject to acceptance by another party of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such Agreement;
- f) refuses to give a competitor or customer access to an essential facility or input when it is economically feasible to do so;
- g) applies dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage.

## **Article 10**

### **Mergers and Acquisitions**

1. The provisions of this Article shall apply to mergers and acquisitions with continental dimension in the Market where:
  - a) both the acquiring undertaking and target undertaking or either the acquiring undertakings or target undertakings operate, directly or indirectly, in the Market; and
  - b) the combined annual turnover and/or assets of the undertakings concerned equals to or exceeds the thresholds to be determined by a Regulation.
2. Threshold for notification and merger notification fees shall be calculated based on the combined annual continental turnover or combined value of assets as provided in paragraph 1.b of this Article.
3. Undertakings falling within the scope of this Article that seeks to enter a merger of continental dimension shall notify the Authority and no merger shall come into effect before the written approval of the Authority.
4. A merger shall be deemed to exist when a change of control on a lasting basis, results from:
  - a) the amalgamation of two or more previously independent undertakings or parts of these undertakings;
  - b) acquisition of the ability of one or more undertakings to exercise control, directly or indirectly, over the whole or parts of one or more

other undertakings, whether by the purchase of securities or assets, by contract or by any other means; or

- c) the establishment or acquisition of a joint venture by two or several other undertakings, performing on a lasting basis all the functions of an autonomous economic entity.
5. Control shall be constituted by rights, contracts or any other means which, either separately or in combination, and considering all factual and legal considerations, confer the possibility of exercising decisive influence on the whole or parts of one or more undertakings, in particular by:
- a) acquisition of the majority of the total voting rights or total capital contributions of another undertaking, either separately or in combination;
  - b) the constitution of a minority with a veto power;
  - c) ownership or the right to use all or part of the assets of another person;
  - d) rights or contracts which confer decisive influence on the composition, voting or decisions of the organs of another person/ on the appointment of the majority of the members of the Board of directors or on the decisions of the Board of directors or the shareholders' meetings;
  - e) more than half of the members of the Board of directors or the members of the shareholders' meetings are the same between the concerned undertakings;
  - f) having the ability to materially influence the policy of the undertaking or undertakings in a manner comparable to a person who, in ordinary commercial practice, can exercise an element of control referred to above.
6. A merger that is likely to substantially lessen, prevent, restrict, or distort competition in the Market or in a substantial part of it, including by giving rise to the creation or strengthening of a dominant position, shall be declared incompatible with the Protocol.
7. In determining whether a merger is likely to substantially lessen, prevent, restrict, or distort competition within the Market, the Authority shall consider all relevant competitive factors, including:
- a) the competitive structure of all markets affected by the merger;

- b) barriers to entry including consideration of the ease of entry, including tariff and regulatory barriers;
  - c) the level and trends of concentration;
  - d) the history of collusion;
  - e) the degree of countervailing power;
  - f) the dynamic characteristics including growth, innovation, and product differentiation;
  - g) the nature and extent of vertical integration including the undertakings likely to be affected by the merger, the merging undertakings' control of essential facilities and financial resources;
  - h) whether the business or part of the business of a party to the merger or proposed merger has failed or is likely to fail, the burden of proof falls upon the concerned undertakings;
  - i) whether the merger will result in the removal of an effective competitor; or
  - j) any pro-competitive effects of the merger, which may outweigh the harmful effects on competition, the burden of proof falls upon the concerned undertakings.
8. In determining whether a merger is likely to substantially lessen, prevent, restrict, or distort competition within the Market or a substantial part of it, the Authority shall also consider all relevant public interest factors, including:
- a) the potential to promote sustainable and inclusive socio-economic and industrial development;
  - b) employment;
  - c) the ability of small and medium-sized businesses to become competitive; or
  - d) the ability of industries in the Market to compete in other international markets.

9. Upon notification of a merger by an undertaking or undertakings and following a merger review process, the Authority shall:
  - a) approve the merger without conditions;
  - b) approve the merger with conditions; or
  - c) deny the merger.
  
10. The Authority may revoke its decision to approve or conditionally approve the merger or, in respect of a conditional approval, make any appropriate decision regarding any conditions relating to the merger, if;
  - a) the decision was based on incorrect information for which a part to the merger is responsible;
  - b) the approval was obtained by deceit; or
  - c) an undertaking concerned has breached an obligation attached to the decision.

## **Article 11**

### **Abuse of economic dependence and any other anti-competitive practices**

1. Economic dependence is deemed to exist where undertakings as suppliers or purchasers of a certain type of goods or services are dependent on another undertaking or a group of undertakings in such a way that sufficient and reasonable possibilities for switching to third parties do not exist and there is a significant imbalance between the power of such undertakings or group of undertakings and the countervailing power of other undertakings.
  
2. The determination of economic dependence shall be based on:
  - a) the market share of the undertaking in the Market;
  - b) the relative strength of the undertaking;
  - c) the existence or not of alternative solutions;
  - d) the factors that led to the situation of dependence.

3. It is prohibited for an undertaking or a group of undertakings or gatekeepers to abuse the relative position of economic dependence over a customer or supplier if the conduct substantially affects the functioning and structure of competition in the Market.
4. Undertakings that are designated as gatekeepers or core platforms are prohibited from engaging in any of the following conduct:
  - a) imposing price or service parity clauses on business users;
  - b) imposing anti-steering provisions, or otherwise preventing business users from engaging consumers directly outside of a core platform;
  - c) using business user data to compete against the business user;
  - d) self-preferencing of services or products offered by the gatekeeper on a core platform;
  - e) differentiation in fees or treatment against small and medium enterprises;
  - f) placing restrictions on the portability of data or other actions that inhibit switching platforms for business and end-users;
  - g) failing to identify paid ranking as advertising in search results and to allow paid results to exceed organic results on the first results page;
  - h) combining personal data sourced from different services offered by the gatekeeper; or
  - i) requiring the pre-installation of gatekeeper applications or services on devices.
5. The Council of Ministers shall develop a Regulation designating Undertaking as gatekeepers or core platforms.



**PART III**  
**RESPONSIBILITIES OF STATE PARTIES**

**Article 12**  
**National laws and notifications**

1. Each State Party shall notify, within six (6) months after the entry into force of this Protocol, through the Secretariat to other State Parties in one (1) of the African Union working languages, its laws, regulations as well as any other commitments under an international agreement relating to any matter covered by this Protocol.
2. State Parties shall notify the Secretariat, in one (1) of the African Union working languages of any new or amended laws, regulations and international commitments relating to matters covered by this Protocol within six (6) months after their entry into force.
3. State Parties without competition law and enforcement bodies shall enact competition laws and establish competition enforcement bodies upon entry into force of this Protocol or their accession to the AfCFTA Agreement.
4. Each State Party shall designate a body as a focal point for the implementation of this Protocol.
5. State Parties shall endeavor to harmonize their competition laws to ensure consistency with this Protocol.
6. Notwithstanding paragraph 5, State Parties have the right to regulate competition practices within their territories and this Protocol recognizes the State Parties' right to achieve legitimate policy objectives.
7. State Parties shall ensure that their respective competition laws adhere to the principles of transparency, independence and procedural fairness.

**PART IV**  
**INSTITUTIONAL ARRANGEMENTS**

**Article 13**  
**The Authority**

1. The Authority is hereby established as an autonomous body with an independent legal personality.
2. The Authority shall be composed of:
  - a) a decision-making body to be headed by a Chairperson of the Board;  
and

- b) an Investigative Body to be headed by an Executive Director.
- 3. The Council of Ministers shall develop the Rules of Procedure for the Authority and recommend to the Executive Council for approval.
- 4. The Assembly shall determine the structure and location of the Authority upon the recommendation of the Council of Ministers.
- 5. The funds of the Authority budget shall be derived from the annual budget of the AfCFTA Secretariat and other sources of funding that may be determined by the Council of Ministers.

#### **Article 14** **The Board**

- 1. The Authority shall be governed by a Board which shall, inter alia:
  - a) direct the policy of the Authority;
  - b) adjudicate on any conduct prohibited in terms of this Protocol;
  - c) approve, with or without conditions, or deny applications for exemptions;
  - d) approve, with or without conditions, or deny a merger; and
  - e) oversee the administration of the Authority.
- 2. The Board shall consist of three (3) members from each of the five geographic regions of the African Union appointed by the Council of Ministers on the proposal of the Secretary-General of the AfCFTA.
- 3. The Board shall elect from among its members the Chairperson and Vice-Chairperson, who shall not be from the same region.
- 4. The Executive Director of the Authority shall provide secretarial services to the Board.
- 5. A representative of the AfCFTA Secretariat shall participate in the meeting of the Board without voting rights.
- 6. The Board members shall be nominated:

- a) for their ability and experience in competition policy and law, economics, commerce or public policy; and
  - b) among citizens of the AfCFTA State Parties.
7. Members of the Board shall not involve themselves in the day-to-day administration of the Authority or in the investigation process.
  8. The Board members shall hold office for a term of four (4) years. No Board member may serve for more than two terms.
  9. The Board shall convene upon an invitation by its Chairperson. The quorum for the meetings of the Board shall be two-thirds (2/3) majority of its members.
  10. Decisions of the Board shall be adopted by consensus, failing which, by a simple majority of the Board members present.
  11. The Board shall abide by AU Regulations and Rules as well as those developed by the Council of Ministers.

**Article 15**  
**Functions of the Investigative Body**

The Authority, through the Investigative Body, shall administer and enforce the provisions of this Protocol and shall in particular:

- a) examine mergers and acquisitions;
- b) investigate anti-competitive practices;
- c) undertake market studies or inquiries and make appropriate recommendations to the Council of Ministers;
- d) examine exemption applications;
- e) regularly review this Protocol so as to advise on its improvement;
- f) assist State Parties to promote and strengthen national competition laws and establish competition bodies;
- g) co-operate with:
  - i. national and regional competition authorities;

- ii. non-African competition authorities; and
- iii. sector regulators with or without concurrent competition jurisdiction.

**Article 16**  
**The Executive Director of the Authority**

1. The Executive Director shall be appointed by the Council of Ministers in line with the African Union Staff Regulations and Rules.
2. The Executive Director of the Authority shall be:
  - a) a citizen of a Member State;
  - b) qualified in competition policy and law, economics, commerce or public policy; and
  - c) a full-time staff of the Authority and be responsible for its administrative and investigative functions.
3. The Executive Director shall hold office for a term of five (5) years, renewable once.

**Article 17**  
**Decisions and Sanctions**

1. The Authority, following its determinations may take one or more of the following decisions on an undertaking or an association of undertakings:
  - a) interdicting an anti-competitive Agreement, business practice or conduct;
  - b) ordering remedies for the anti-competitive business practices or conduct;
  - c) approving or prohibiting a merger, in relation to merger notifications, with or without conditions;
  - d) in relation to exemption applications, grant the exemption, with or without conditions, or deny the exemption application;

- e) impose financial penalties not exceeding ten per centum (10%) of an undertaking's continental turnover in the preceding year for those undertakings operating within the Market. Where an undertaking operates outside the Market, the fine not exceeding ten per centum (10%) of its worldwide turnover in the preceding financial year shall apply;
  - f) conclude the matter by way of an administrative settlement; or
  - g) issue any administrative directive in terms of this Protocol.
2. Notwithstanding sub-article (1)(e) above, the Authority may impose financial penalties in the following cases:
- a) where an undertaking or an association of undertakings has infringed articles 6, 7, 9 or 11;
  - b) where an undertaking or an association of undertakings has failed to notify a merger meeting the prescribed thresholds of notification.
3. In case of repetition of an offence, the sanction shall be aggravated.
4. Notwithstanding sub-article (1) above, where the Authority has grounds to suspect that Part II of this Protocol is violated and has commenced an investigation but not completed it, the Authority may issue an interim order to:
- a) interdict the conduct which may cause serious or irreparable injury to competition in the market; or
  - b) prevent pre-emptive measures from being taken by any party that would otherwise prejudice the investigation.
5. Following a determination on any matter or any other function stated in this Protocol, the Authority shall issue and publish a decision with reasons.
6. Any person or undertaking that fails to comply with a decision of the Board shall be deemed to have breached this Protocol and shall be liable to such sanctions as shall be prescribed in Regulations to be developed by the Council of Ministers.

**Article 18**  
**Committee on Competition Policy**

1. The Council of Ministers, in accordance with Article 11 of the AfCFTA Agreement, shall establish the Committee on Competition Policy.
2. The Committee shall carry out such functions as may be assigned to it by the Council of Ministers to facilitate the implementation of this Protocol and further its objectives.
3. The Committee may establish such sub-committees and working groups, as it considers necessary for the effective discharge of its functions.
4. The Committee shall be composed of duly designated representatives from State Parties.

**Article 19**  
**Regulations**

The Committee on Competition Policy shall develop and recommend Regulations for the effective implementation of this Protocol, including the procedures and powers of the Authority, for the consideration of the Council of Ministers.

**PART V**  
**GENERAL PROVISIONS**

**Article 20**  
**Regional Authorities**

1. The Competition Authorities of the Regional Economic Communities (RECs) shall maintain their jurisdiction as building blocks for an integrated competition regime in Africa.
2. The Council of Ministers shall develop future regulations and procedures to address the concurrent jurisdiction.

**Article 21**  
**Implementation, monitoring and evaluation**

1. The Committee on Competition Policy shall be responsible for the monitoring and evaluation of this Protocol and report to the Council of Ministers through the Committee of Senior Trade Officials.
2. The AfCFTA Secretariat shall assist and support the Committee on Competition Policy in the implementation, evaluation and monitoring of this Protocol.
3. The Secretariat and the Authority shall, in consultation with the Committee, prepare annual factual reports to facilitate the process of implementation, monitoring and evaluation of this Protocol.
4. These reports should be considered and adopted by the Council of Ministers.

**Article 22**  
**Technical Assistance, Capacity Building and Cooperation**

1. The AfCFTA Secretariat or Authority shall, in cooperation with the State Parties, Regional Economic Communities and development partners, provide technical assistance and undertake activities to enhance capacity building to State Parties.
2. The AfCFTA Secretariat or Authority shall provide technical assistance, upon request, to State Parties or Member States wishing to enact competition legislation and establish competition enforcement bodies, and may provide such assistance from its own resources or resources mobilized for that purpose.
3. The Council of Ministers shall develop a Regulation establishing a network composed of national, regional and continental competition authorities to facilitate cooperation and coordination in the implementation of this Protocol.
4. The Authority shall recommend any procedure or policy strengthening cooperation between Member States.

**Article 23**  
**Dispute Settlement**

Disputes arising among State Parties in relation to their rights and obligations under this Protocol shall be resolved in accordance with the Protocol on Rules and Procedures on the Settlement of Disputes under the AfCFTA Agreement.

**Article 24**  
**The Tribunal**

1. The Tribunal is hereby established as a functional autonomous body with an independent legal personality.
2. The Tribunal shall be responsible for the appeals against Decisions taken by the Board of the Authority in the implementation of the relevant provisions of this Protocol. The Decisions of the Tribunal shall be final and binding on all parties to the disputes.
3. The composition and modalities for the functioning of the Competition Tribunal shall be determined by a Regulation to be developed by the Council of Ministers.

**PART V**  
**FINAL PROVISIONS**

**Article 25**  
**Transition and Roadmap**

1. The Assembly of Heads of State and Government shall adopt a roadmap for an integrated and unified African continental competition regime in accordance with the Abuja Treaty establishing the African Economic Community, considering the respective competencies of national and regional competition regimes.
2. The Authority shall be operationalized in accordance with the roadmap. The roadmap shall form an integral part of this Protocol upon adoption by the Heads of State and Government.
3. The Authority shall be administratively supported by the AfCFTA Secretariat during the operationalisation period.



**Article 26**  
**Entry into Force**

1. This Protocol shall be open for signature, ratification and accession, by the State Parties to the AfCFTA Agreement, in accordance with their respective constitutional procedures.
2. This Protocol shall enter into force in accordance with the provisions of Articles 23(2) and 23(4) of the AfCFTA Agreement.

**Article 27**  
**Amendment**

The amendment of this Protocol shall be in accordance with Article 29 of the AfCFTA Agreement.

**Article 28**  
**Authentic Texts**

This Protocol is drawn up in five (5) original texts in the Arabic, English, French, Portuguese and Spanish languages, all of which are equally authentic.