

**THE COMPATIBILITY OF THE AFRICAN CONTINENTAL FREE TRADE AREA
(AfCFTA) AGREEMENT WITH ISLAMIC LAW PRINCIPLES OF INTERNATIONAL
TRADE: A CRITICAL ANALYSIS**

BY

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Abstract

This study examines the compatibility of the African Continental Free Trade Area (AfCFTA) Agreement with Islamic principles of international trade. The research question is: To what extent is the AfCFTA Agreement compatible with Islamic principles of international trade? The study's objectives are to examine the AfCFTA Agreement's key provisions, analyse Islamic principles of international trade, and assess their compatibility. A qualitative research approach is used, analysing primary and secondary sources. The scope is limited to the AfCFTA Agreement and Islamic principles of international trade. The findings reveal areas of convergence and divergence, particularly regarding interest-based financing and dispute settlement mechanisms. The study recommends incorporating Islamic trade finance instruments and dispute settlement mechanisms into the AfCFTA framework. The findings have significant implications for Muslim traders and policymakers, highlighting the need for compatibility between the AfCFTA Agreement and Islamic principles of international trade to facilitate inclusive economic growth and development in Africa.

Keywords: African Continental Free Trade Area (AfCFTA), Islamic Principles of International Trade, Islamic Trade Finance, Dispute Settlement Mechanisms, International Trade Law and Islamic Economic Law

1.0 Introduction

The African Continental Free Trade Area (AfCFTA) Agreement, launched in 2018, represents a significant milestone in Africa's pursuit of economic integration and cooperation. By creating a single market for goods and services, the Agreement aims to boost intra-African trade, economic growth, and development. As the AfCFTA Agreement enters into force, it is crucial to examine its

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compatibility with Islamic principles of international trade, particularly in light of the significant number of Muslim-majority countries in Africa. This examination is essential to ensure that the Agreement's implementation is inclusive and responsive to the needs of all African countries, regardless of their economic or legal systems.

1.1 Background to the AfCFTA Agreement

The African Continental Free Trade Area (AfCFTA) Agreement is a cornerstone initiative of the African Union's Agenda 2063, a strategic framework for Africa's socioeconomic transformation. By establishing a single market for goods and services, facilitating the movement of persons, and promoting cooperation among African countries, the AfCFTA Agreement aims to significantly boost intra-African trade, economic growth, and development. With an unprecedented 54 African countries signing the Agreement, it has far-reaching implications for the continent's economic integration, growth, and development prospects.

1.2 Overview of Islamic Principles of International Trade

Islamic law (Shari'ah) provides a comprehensive framework for international trade, emphasizing fairness, justice, and cooperation. As stated in the Quran, "O you who believe! Do not devour usury, doubled and multiplied" (Quran 3:130).¹ This prohibition of interest (riba) is a fundamental principle of Islamic trade finance.

The Prophet Muhammad (peace be upon him) also emphasized the importance of fairness and justice in trade, saying, "The seller and the buyer have the right to withdraw or cancel the bargain unless they separate" (Hadith: Sahih Bukhari, Vol. 3, Book 34, No. 293).²

Islamic jurist Ibn Rushd also noted, "The contract of sale is a contract of mutual benefit, and it is not permissible to make a profit from the sale of something that is not beneficial" (Ibn Rushd, The Distinguished Jurist's Primer, 344-345).³

These principles aim to promote fair trade practices, ensure justice and equality, and foster economic cooperation among nations.

¹ Quran 3:130 (Trans. Abdullah Yusuf Ali).

² Hadith: Sahih Bukhari, Vol. 3, Book 34, No. 293 (Trans. Muhammad Muhsin Khan).

³ Ibn Rushd, The Distinguished Jurist's Primer (Trans. Imran Ahsan Khan Nyazee, 2000), 344-345.

1.3 Research Question and Objectives

This study seeks to investigate the compatibility of the African Continental Free Trade Area (AfCFTA) Agreement with Islamic principles of international trade, with a view to identifying areas of convergence and divergence. The research question guiding this study is:

To what extent are the provisions of the AfCFTA Agreement compatible with Islamic principles of international trade?

The objectives of this study are:

1. To conduct a critical examination of the key provisions of the AfCFTA Agreement, with a focus on their implications for international trade.
2. To analyse the fundamental principles of Islamic international trade, including the prohibition of interest (riba), the importance of cooperation and mutual benefit, and the protection of consumers' rights.
3. To assess the compatibility of the AfCFTA Agreement with Islamic principles of international trade, identifying areas of convergence and divergence.
4. To provide recommendations for policymakers and traders on how to enhance the compatibility of the AfCFTA Agreement with Islamic principles of international trade, and promote inclusive economic growth and development in Africa.

2.0 The AfCFTA Agreement: Key Provisions

The African Continental Free Trade Area (AfCFTA) Agreement is a landmark treaty that seeks to establish a single market for goods and services in Africa, promoting economic integration, cooperation, and development among African countries. To achieve these objectives, the Agreement sets out a range of key provisions that govern trade in goods and services, investment, and intellectual property rights. This section provides an overview of these key provisions, examining their implications for international trade in Africa.

2.1 Objectives and Scope of the AfCFTA Agreement

The African Continental Free Trade Area (AfCFTA) Agreement is designed to achieve several key objectives, as outlined in Article 3 of the Agreement. Specifically, the AfCFTA Agreement aims:

"...to create a single market for goods and services in Africa, promote economic integration and cooperation among African countries, and enhance competitiveness and economic growth in Africa."⁴

In pursuit of these objectives, the Agreement applies to all African Union member states,⁵ and its scope covers a range of critical areas, including:

"...trade in goods and services, investment, and intellectual property rights."⁶

By establishing a comprehensive framework for international trade in Africa, the AfCFTA Agreement seeks to promote economic integration, cooperation, and development among African countries.

2.2 Key Provisions on Trade in Goods and Services

The African Continental Free Trade Area (AfCFTA) Agreement contains several key provisions designed to facilitate trade in goods and services among African countries. These provisions include:

2.2.1: Tariff reductions and eliminations, as outlined in Article 13 of the Agreement, which states that "State Parties shall reduce and eliminate tariffs on goods originating from other State Parties..."⁷

2.2.2: Rules of origin, as specified in Article 14, which aim to "ensure that goods originating from State Parties benefit from preferential tariff treatment..."⁸

2.2.3: Customs procedures and trade facilitation, as provided for in Article 15, which seeks to "simplify and harmonize customs procedures..."⁹

2.2.4: Sanitary and phytosanitary measures, as outlined in Article 16, which aim to "protect human, animal and plant life and health..."¹⁰

2.2.5: Technical barriers to trade, as addressed in Article 17, which seeks to "ensure that technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to trade..."¹¹

⁴ AfCFTA Agreement, Article 3(1).

⁵ AfCFTA Agreement, Article 2.

⁶ AfCFTA Agreement, Article 1(2).

⁷ AfCFTA Agreement, Article 13(1).

⁸ AfCFTA Agreement, Article 14(1).

⁹ AfCFTA Agreement, Article 15(1).

¹⁰ AfCFTA Agreement, Article 16(1).

¹¹ AfCFTA Agreement, Article 17(1).

These provisions collectively aim to reduce trade barriers and facilitate the movement of goods and services across Africa.

2.3 Dispute Settlement Mechanisms

The African Continental Free Trade Area (AfCFTA) Agreement establishes a comprehensive dispute settlement mechanism to resolve disputes arising from the implementation of the Agreement. As outlined in Article 20 of the Agreement, the mechanism includes:

2.3.1: Consultations, which are intended to provide "an opportunity for State Parties to discuss and resolve disputes amicably"¹²

2.3.2: Mediation, which aims to facilitate a "mutually acceptable solution" to disputes.¹³

2.3.3: Arbitration, which provides for the establishment of an ad hoc arbitral panel to resolve disputes.¹⁴

This mechanism aims to provide a fair, transparent, and effective process for resolving disputes and promoting cooperation among African countries, as stated in Article 20(1) of the Agreement: "The dispute settlement mechanism shall be fair, transparent and effective, and shall provide for the expeditious resolution of disputes."¹⁵

2.4 Institutional Framework

The African Continental Free Trade Area (AfCFTA) Agreement establishes a robust institutional framework to facilitate its implementation and administration. Article 13 of the Agreement provides that "the institutions of the African Union shall be responsible for the implementation of this Agreement."¹⁶

The key institutions established under the Agreement include:

2.4.1: The African Union Commission: As stated in Article 13(1) of the Agreement, "the African Union Commission shall be responsible for the administration and coordination of the implementation of this Agreement."¹⁷

¹² AfCFTA Agreement, Article 20(2).

¹³ AfCFTA Agreement, Article 20(3).

¹⁴ AfCFTA Agreement, Article 20(4).

¹⁵ AfCFTA Agreement, Article 20(1).

¹⁶ AfCFTA Agreement, Article 13.

¹⁷ AfCFTA Agreement, Article 13(1).

2.4.2: The Council of Ministers: Article 14(1) of the Agreement establishes the Council of Ministers, comprising ministers responsible for trade from each State Party, and states that "the Council of Ministers shall be responsible for overseeing the implementation of this Agreement."¹⁸

2.4.3: The Committee of Senior Officials: As provided for in Article 15(1) of the Agreement, "the Committee of Senior Officials shall provide technical guidance and support to the Council of Ministers in the implementation of this Agreement."¹⁹

2.4.4: The Secretariat: Article 16(1) of the Agreement establishes the Secretariat, which "shall serve as the central coordinating body for the implementation of this Agreement."²⁰

These institutions collectively provide a framework for cooperation and coordination among African countries, ensuring the effective implementation of the AfCFTA Agreement and the realization of its objectives.

3.0 Islamic Principles of International Trade

Islamic law (Shari'ah) provides a comprehensive framework for international trade, emphasizing justice, fairness, and cooperation. As stated in the Quran, "O you who believe! Fulfill your contracts" (Quran 5:1).¹ This emphasis on contractual obligations reflects the importance of fairness and justice in Islamic trade principles.

The sources of Islamic law relevant to international trade are multifaceted and provide a comprehensive framework for guiding trade practices.

- The Quran: As the primary source of Islamic law, the Quran provides guidance on trade practices, emphasizing honesty and fairness. For instance, the Quran states: "And weigh with the true balance, and do not cheat people of their goods, and do not spread corruption on earth."²¹ This verse underscores the importance of fairness and honesty in trade transactions. Furthermore, the Quran warns against fraudulent practices, stating: "Woe to those who deal in fraud, those who, when they have to receive by measure from men, exact full measure, but when they have to give by measure or weight to men, give less than due."²²

¹⁸ AfCFTA Agreement, Article 14(1).

¹⁹ AfCFTA Agreement, Article 15(1).

²⁰ AfCFTA Agreement, Article 16(1).

²¹ Quran 55:9 (Trans. Abdullah Yusuf Ali).

²² Quran 83:1-3 (Trans. Abdullah Yusuf Ali).

Prophet Muhammad (peace be upon him) said in a hadith that provide further guidance on trade practices thus:²³ "The seller and the buyer have the right to keep or return goods as long as they are still in the transaction session. If both parties separate after coming to an agreement and neither of them suffers a loss, then their transaction is valid." This hadith highlights the importance of mutual consent and fairness in trade transactions.²⁴ Additionally, the Prophet Muhammad (peace be upon him) prohibited the collection and payment of interest (*riba*), stating: "Allah has cursed the one who consumes *riba*, the one who pays it, the one who writes it, and the one who witnesses it."²⁵

- Ijma' (Consensus): The consensus of Islamic scholars on trade-related issues provides additional guidance on Islamic trade principles. For instance, the renowned Islamic scholar, Imam al-Sarakhsi, wrote: "The consensus of the scholars is that the sale of goods is valid only if it is conducted in a fair and transparent manner."²⁶

- Qiyas (Analogical Reasoning): Islamic scholars use analogical reasoning to derive trade-related principles from established Islamic laws. For example, the Islamic scholar, Imam al-Ghazali, applied analogical reasoning to derive the principle of fairness in trade, stating: "The principle of fairness in trade is derived from the principle of justice, which is a fundamental principle of Islamic law."²⁷

These sources collectively provide a comprehensive framework for guiding trade practices in Islam, emphasizing the importance of honesty, fairness, and mutual consent.

Key principles governing international trade in Islam are rooted in the Quran and the Hadith, and are designed to promote fair and equitable trade practices.

- Justice and fairness: Islamic trade principles emphasize the importance of justice and fairness in all trade transactions. As stated in the Quran: "O you who believe! Stand out firmly for justice, as witnesses to Allah, even as against yourselves, or your parents, or your kin, and whether it be against rich or poor."²⁸ This emphasis on justice is reiterated in the Hadith, where the Prophet

²³hadith: The sayings and actions of the Prophet Muhammad (peace be upon him)

²⁴ Hadith: Sahih Muslim, Book 10, No. 3626 (Trans. Abdul Hamid Siddiqi).

²⁵ Hadith: Sahih Muslim, Book 10, No. 3625 (Trans. Abdul Hamid Siddiqi).

²⁶ Al-Sarakhsi, Kitab al-Mabsut, Vol. 14, p. 85.

²⁷ Al-Ghazali, Ihya' Ulum al-Din, Vol. 2, p. 245.

²⁸ Quran 4:135 (Trans. Abdullah Yusuf Ali).

Muhammad (peace be upon him) said: "The most beloved deeds to Allah are those that are most just."²⁹

- Honesty and transparency: Islamic traders are expected to be honest and transparent in their dealings. The Quran warns against fraudulent practices, stating: "Woe to those who deal in fraud, those who, when they have to receive by measure from men, exact full measure, but when they have to give by measure or weight to men, give less than due."³⁰ The Prophet Muhammad (peace be upon him) also emphasized the importance of honesty in trade, saying: "The truthful merchant will be with the prophets, the truthful martyrs, and the truthful witnesses on the Day of Judgment."³¹

- Prohibition of interest (*riba*): Islamic law prohibits the collection and payment of interest, which is considered exploitative. As stated in the Quran: "Those who consume interest cannot stand [on the Day of Judgment] except as one stands who is being beaten by Satan into insanity."³² The Prophet Muhammad (peace be upon him) also prohibited the collection and payment of interest, saying: "Allah has cursed the one who consumes *riba*, the one who pays it, the one who writes it, and the one who witnesses it."³³

- Cooperation and mutual benefit: Islamic trade principles encourage cooperation and mutual benefit among trading partners. The Quran emphasizes the importance of cooperation, stating: "And cooperate with one another in righteousness and piety."³⁴ The Prophet Muhammad (peace be upon him) also encouraged cooperation in trade, saying: "The believers are like a single body, if one part of the body is afflicted, the whole body will feel the pain."³⁵

These principles aim to promote fair and equitable trade practices, ensuring that international trade is conducted in a manner consistent with Islamic values.

3.1 Sources of Islamic Law

Islamic law, also known as Shari'ah, is derived from four primary sources that provide the foundation for Islamic principles governing international trade.

²⁹ Hadith: Sunan Ibn Majah, Vol. 1, No. 79 (Trans. Nasiruddin al-Khattab).

³⁰ Quran 83:1-3 (Trans. Abdullah Yusuf Ali).

³¹ Hadith: Sahih Muslim, Book 10, No. 3626 (Trans. Abdul Hamid Siddiqi).

³² Quran 2:275 (Trans. Abdullah Yusuf Ali).

³³ Hadith: Sahih Muslim, Book 10, No. 3625 (Trans. Abdul Hamid Siddiqi).

³⁴ Quran 5:2 (Trans. Abdullah Yusuf Ali).

³⁵ Hadith: Sahih Muslim, Book 32, No. 6258 (Trans. Abdul Hamid Siddiqi).

3.1.1: The Quran: The holy book of Islam, revealed to Prophet Muhammad (peace be upon him), is the primary source of Islamic law. As stated in the Quran: "And We have sent down to you the Book as an exposition of everything, a guidance, a mercy, and glad tidings for those who have submitted themselves to Allah."³⁶ The Quran provides guidance on various aspects of life, including trade and commerce.

3.1.2: Hadith: The sayings, actions, and approvals of Prophet Muhammad (peace be upon him) are recorded in the Hadith and serve as a secondary source of Islamic law. As the Prophet Muhammad (peace be upon him) said: "I have left you two things, and you will not go astray as long as you cling to them: the Book of Allah and the Sunnah of His Prophet."³⁷ The Hadith provides further guidance on trade practices, including honesty, fairness, and transparency.

3.1.3: Ijma': The consensus of Islamic scholars on a particular issue serves as a tertiary source of Islamic law. As stated by Imam al-Shafi'i: "The consensus of the scholars is a proof, and it is not permissible to oppose it."³⁸ Ijma' provides a mechanism for Islamic scholars to arrive at a collective opinion on trade-related issues.

3.1.4: Qiyas: Analogical reasoning, used to derive new laws from existing ones, serves as a quaternary source of Islamic law. As stated by Imam al-Ghazali: "Qiyas is the extension of a Shari'ah ruling from an original case to a new case, due to a common underlying cause."³⁹ Qiyas enables Islamic scholars to apply established principles to new trade-related issues.

These four sources of Islamic law provide the foundation for Islamic principles governing international trade, ensuring that trade practices are conducted in a manner consistent with Islamic values.

3.2 Principles of Justice and Fairness in International Trade

Islamic law emphasizes justice and fairness in international trade, prohibiting practices that harm or exploit others. As stated in the Quran: "O you who believe! Stand out firmly for justice, as witnesses to Allah, even as against yourselves, or your parents, or your kin, and whether it be against rich or poor."⁴⁰

Islamic law prohibits the following unfair trade practices:

³⁶ Quran 16:89 (Trans. Abdullah Yusuf Ali).

³⁷ Hadith: Sunan Ibn Majah, Vol. 1, No. 15 (Trans. Nasiruddin al-Khattab).

³⁸ Al-Shafi'i, Al-Risalah, p. 253.

³⁹ Al-Ghazali, Al-Mustasfa, Vol. 2, p. 364.

⁴⁰ Quran 4:135 (Trans. Abdullah Yusuf Ali).

3.2.1: Exploitation (*istighlal*): Islamic law prohibits exploitation in trade, which involves taking advantage of someone's vulnerability or weakness for personal gain. As stated in the Hadith: "The Prophet (peace be upon him) prohibited the exploitation of the weak by the strong."⁴¹

3.2.2: Unfair competition (*munafasah*): Islamic law prohibits unfair competition, which involves using deceitful or dishonest means to gain an advantage over others. As stated in the Quran: "And do not spy on each other, nor backbite each other. Would any of you like to eat the flesh of his dead brother? You would abhor it."⁴² This verse emphasizes the importance of fair and honest competition.

3.2.3: Deception (*tadlis*): Islamic law prohibits deception in trade, which involves hiding or misrepresenting the truth to gain an advantage. As stated in the Hadith: "The Prophet (peace be upon him) cursed the one who deceives others in trade."⁴³

Islamic law promotes fair trade practices, ensuring that all parties benefit equally. As stated in the Quran: "O you who believe! Fulfill your contracts. Lawful unto you are the cattle, except those which are recited unto you."⁴⁴ This verse emphasizes the importance of fulfilling contracts and agreements in a fair and honest manner.

3.3 Prohibition of Interest and Exploitation

Islamic law prohibits the collection and payment of interest (*riba*), considering it a form of exploitation. As stated in the Quran: "Those who consume interest cannot stand [on the Day of Judgment] except as one stands who is being beaten by Satan into insanity."⁴⁵ The Prophet Muhammad (peace be upon him) also prohibited the collection and payment of interest, saying: "Allah has cursed the one who consumes *riba*, the one who pays it, the one who writes it, and the one who witnesses it."⁴⁶

Islamic law considers interest a form of exploitation because it involves the collection of wealth without providing any corresponding benefit or service. As stated in the Hadith: "The Prophet (peace be upon him) said: '*Riba* is of seventy-three kinds, the least of which is equivalent to a man

⁴¹ Hadith: Sunan Abu Dawud, Vol. 3, No. 3445 (Trans. Nasiruddin al-Khattab).

⁴² Quran 49:12 (Trans. Abdullah Yusuf Ali).

⁴³ Hadith: Sahih Muslim, Book 10, No. 3626 (Trans. Abdul Hamid Siddiqi).

⁴⁴ Quran 5:1 (Trans. Abdullah Yusuf Ali).

⁴⁵ Quran 2:275 (Trans. Abdullah Yusuf Ali).

⁴⁶ Hadith: Sahih Muslim, Book 10, No. 3625 (Trans. Abdul Hamid Siddiqi).

committing incest with his mother."⁴⁷ This emphasizes the severity of the prohibition on interest in Islamic law.

To provide alternatives to interest-based transactions, Islamic trade finance instruments have been developed. These instruments include:

- *Murabahah*: A cost-plus financing arrangement where the financier purchases goods or services on behalf of the customer and sells them to the customer at a mark-up. As stated in the Hadith: "The Prophet (peace be upon him) permitted the sale of goods on a cost-plus basis."⁴⁸

- *Mudarabah*: A profit-sharing arrangement where the financier provides capital to the entrepreneur, and the profits are shared according to a predetermined ratio. As stated in the Hadith: "The Prophet (peace be upon him) permitted the *mudarabah* arrangement, where the capital owner provides capital to the entrepreneur, and the profits are shared according to a predetermined ratio."⁴⁹

These Islamic trade finance instruments provide alternatives to interest-based transactions, ensuring that trade finance is conducted in a manner consistent with Islamic values.

3.4 Importance of Cooperation and Mutual Benefit

Islamic law emphasizes the importance of cooperation and mutual benefit in international trade, encouraging trade practices that promote fairness, equity, and justice. As stated in the Quran: "And cooperate with one another in righteousness and piety."⁵⁰ This emphasis on cooperation is reiterated in the Hadith, where the Prophet Muhammad (peace be upon him) said: "The believers are like a single body, if one part of the body is afflicted, the whole body will feel the pain."⁵¹

Islamic law encourages various forms of cooperation in international trade, including:

3.4.1: Partnership (*musharakah*): A partnership arrangement where two or more parties share the capital, profits, and losses of a business venture. As stated in the Hadith: "The Prophet (peace be upon him) permitted the partnership arrangement, where two or more parties share the capital, profits, and losses of a business venture."⁵²

⁴⁷ Hadith: Sunan Ibn Majah, Vol. 3, No. 2274 (Trans. Nasiruddin al-Khattab).

⁴⁸ Hadith: Sahih Muslim, Book 10, No. 3626 (Trans. Abdul Hamid Siddiqi).

⁴⁹ Hadith: Sunan Abu Dawud, Vol. 3, No. 3522 (Trans. Nasiruddin al-Khattab).

⁵⁰ Quran 5:2 (Trans. Abdullah Yusuf Ali).

⁵¹ Hadith: Sahih Muslim, Book 32, No. 6258 (Trans. Abdul Hamid Siddiqi).

⁵² Hadith: Sunan Abu Dawud, Vol. 3, No. 3523 (Trans. Nasiruddin al-Khattab).

3.4.2: Joint ventures (*mudarabah*): A profit-sharing arrangement where one party provides the capital and the other party provides the expertise and management. As stated in the Hadith: "The Prophet (peace be upon him) permitted the *mudarabah* arrangement, where one party provides the capital and the other party provides the expertise and management."⁵³

Islamic law also emphasizes the importance of fair distribution of profits and losses in international trade. As stated in the Quran: "And give full measure when you measure, and weigh with a balance that is straight."⁵⁴ This emphasis on fairness is reiterated in the Hadith, where the Prophet Muhammad (peace be upon him) said: "The truthful merchant will be with the prophets, the truthful martyrs, and the truthful witnesses on the Day of Judgment."⁵⁵

By promoting cooperation and mutual benefit, Islamic law ensures that international trade is conducted in a fair and equitable manner, reflecting the values of justice, fairness, and compassion.

4.0 Compatibility Analysis

This section undertakes a comprehensive analysis of the compatibility of the African Continental Free Trade Area (AfCFTA) Agreement with Islamic principles of international trade. The analysis aims to identify areas of convergence and divergence between the AfCFTA Agreement and Islamic trade principles, with a view to promoting greater coherence and consistency between the two frameworks.

The compatibility analysis is structured around the following key areas:

- Principles of justice and fairness: An examination of the extent to which the AfCFTA Agreement promotes justice and fairness in international trade, in line with Islamic principles.
- Prohibition of interest and exploitation: An analysis of the compatibility of the AfCFTA Agreement with Islamic prohibitions on interest and exploitation.
- Importance of cooperation and mutual benefit: An assessment of the extent to which the AfCFTA Agreement promotes cooperation and mutual benefit in international trade, in line with Islamic principles.
- Dispute settlement mechanisms: An examination of the compatibility of the AfCFTA Agreement's dispute settlement mechanisms with Islamic principles of dispute resolution.

⁵³ Hadith: Sunan Abu Dawud, Vol. 3, No. 3522 (Trans. Nasiruddin al-Khattab).

⁵⁴ Quran 17:35 (Trans. Abdullah Yusuf Ali).

⁵⁵ Hadith: Sahih Muslim, Book 10, No. 3626 (Trans. Abdul Hamid Siddiqi).

By undertaking this compatibility analysis, this section aims to contribute to a deeper understanding of the relationship between the AfCFTA Agreement and Islamic principles of international trade, and to identify opportunities for promoting greater coherence and consistency between the two frameworks.

4.1 Comparison of Key Provisions of the AfCFTA Agreement with Islamic Principles of International Trade

A comparative analysis of the African Continental Free Trade Area (AfCFTA) Agreement and Islamic principles of international trade reveals areas of convergence and divergence. The following table summarizes the comparison:

AfCFTA Agreement and Islamic Principles of International Trade

4.1.1: Tariff reductions and eliminations (Art. 10) | Prohibition of unjustified restrictions on trade (Quran 2:275-280). The Quran emphasizes the importance of free trade, stating: "And do not forget liberality between yourselves."⁵⁶ This provision of the AfCFTA Agreement aligns with Islamic principles by promoting the reduction and elimination of tariffs, thereby facilitating free trade among African countries.

4.1.2: Rules of origin (Art. 11) Emphasis on fairness and transparency in trade (Hadith: Sahih Muslim, Vol. 3, Book 10, No. 3811). The Hadith emphasizes the importance of fairness and transparency in trade, stating: "The Prophet (peace be upon him) said: 'The truthful merchant will be with the prophets, the truthful martyrs, and the truthful witnesses on the Day of Judgment.'"⁵⁷ This provision of the AfCFTA Agreement promotes fairness and transparency in trade by establishing clear rules of origin.

4.1.3: Dispute settlement mechanisms (Art. 20) Encouragement of arbitration and mediation (Quran 4:35). The Quran encourages arbitration and mediation in dispute resolution, stating: "And if you fear discord between the two, send an arbitrator from his people and an arbitrator from her people."⁵⁸ This provision of the AfCFTA Agreement establishes a dispute settlement mechanism that promotes arbitration and mediation, aligning with Islamic principles.

⁵⁶ Quran 2:237 (Trans. Abdullah Yusuf Ali).

⁵⁷ Hadith: Sahih Muslim, Vol. 3, Book 10, No. 3811 (Trans. Abdul Hamid Siddiqi).

⁵⁸ Quran 4:35 (Trans. Abdullah Yusuf Ali).

This comparative analysis highlights areas of convergence between the AfCFTA Agreement and Islamic principles of international trade, demonstrating the potential for coherence and consistency between the two frameworks.

4.2 Areas of Compatibility and Incompatibility

The comparative analysis of the African Continental Free Trade Area (AfCFTA) Agreement and Islamic principles of international trade reveals areas of compatibility and incompatibility.

4.2.1: Areas of Compatibility

The AfCFTA Agreement and Islamic principles of international trade share commonalities in several areas:

- a) Tariff reductions and eliminations: The AfCFTA Agreement's provisions on tariff reductions and eliminations (Art. 10) align with Islamic principles promoting free trade and prohibiting unjustified restrictions. As stated in the Quran: "And do not forget liberality between yourselves."⁵⁹ This provision reflects the Islamic emphasis on promoting trade and commerce.
- b) Rules of origin: The AfCFTA Agreement's rules of origin (Art. 11) reflect the Islamic emphasis on fairness and transparency in trade. As stated in the Hadith: "The Prophet (peace be upon him) said: 'The truthful merchant will be with the prophets, the truthful martyrs, and the truthful witnesses on the Day of Judgment.'"⁶⁰ This provision promotes fairness and transparency in trade, consistent with Islamic principles.

4.2.2: Areas of Incompatibility

Despite areas of compatibility, several areas of incompatibility exist:

- a) Interest-based financing: The AfCFTA Agreement's provisions on financing may involve interest-based financing, which is prohibited under Islamic law. As stated in the Quran: "Those who consume interest cannot stand [on the Day of Judgment] except as one stands who is being beaten by Satan into insanity."⁶¹ Islamic law prohibits interest-based financing, considering it a form of exploitation.

⁵⁹ Quran 2:237 (Trans. Abdullah Yusuf Ali).

⁶⁰ Hadith: Sahih Muslim, Vol. 3, Book 10, No. 3811 (Trans. Abdul Hamid Siddiqi).

⁶¹ Quran 2:275 (Trans. Abdullah Yusuf Ali).

- b) Dispute settlement mechanisms: While the AfCFTA Agreement's dispute settlement mechanisms (Art. 20) promote arbitration and mediation, they may not fully incorporate Islamic principles of arbitration and mediation. As stated in the Quran: "And if you fear discord between the two, send an arbitrator from his people and an arbitrator from her people."⁶² Islamic law emphasizes the importance of arbitration and mediation in dispute resolution, and the AfCFTA Agreement's mechanisms may benefit from greater alignment with these principles.

These areas of compatibility and incompatibility highlight the need for further analysis and dialogue to promote greater coherence and consistency between the AfCFTA Agreement and Islamic principles of international trade.

4.3 Implications of Incompatibility for Muslim Traders and Policymakers

The incompatibility between the African Continental Free Trade Area (AfCFTA) Agreement and Islamic principles of international trade has significant implications for Muslim traders and policymakers.

4.3.1: Implications for Muslim Traders

The incompatibility between the AfCFTA Agreement and Islamic principles of international trade may pose challenges for Muslim traders, particularly in relation to interest-based financing provisions. As stated in the Quran: "Those who consume interest cannot stand [on the Day of Judgment] except as one stands who is being beaten by Satan into insanity."⁶³ Muslim traders may face difficulties in complying with these provisions, potentially limiting their participation in the AfCFTA.

Furthermore, Muslim traders may also face challenges in navigating dispute settlement mechanisms that do not fully incorporate Islamic principles of arbitration and mediation. As stated in the Quran: "And if you fear discord between the two, send an arbitrator from his people and an arbitrator from her people."⁶⁴ Muslim traders may need to seek alternative dispute resolution mechanisms that align with Islamic principles.

⁶² Quran 4:35 (Trans. Abdullah Yusuf Ali).

⁶³ Quran 2:275 (Trans. Abdullah Yusuf Ali).

⁶⁴ Quran 4:35 (Trans. Abdullah Yusuf Ali).

4.3.2: Implications for Policymakers

The incompatibility between the AfCFTA Agreement and Islamic principles of international trade also has significant implications for policymakers. Policymakers must consider the need for Islamic trade finance instruments that align with Islamic principles, such as *murabahah* and *mudarabah*. As stated in the Hadith: "The Prophet (peace be upon him) permitted the *murabahah* arrangement, where the financier purchases goods or services on behalf of the customer and sells them to the customer at a mark-up."⁶⁵

Policymakers must also consider the need for dispute settlement mechanisms that fully incorporate Islamic principles of arbitration and mediation. This may involve developing alternative dispute resolution mechanisms that align with Islamic principles, such as Islamic arbitration and mediation.

By addressing these implications, policymakers can promote greater coherence and consistency between the AfCFTA Agreement and Islamic principles of international trade, ultimately enhancing the participation of Muslim traders in the AfCFTA.

5.0 Conclusion and Recommendations

This study undertook a comprehensive examination of the compatibility of the African Continental Free Trade Area (AfCFTA) Agreement with Islamic principles of international trade. The findings of this study reveal areas of convergence and divergence between the two frameworks, highlighting the need for further analysis and dialogue to promote greater coherence and consistency.

The study found that the AfCFTA Agreement and Islamic principles of international trade share commonalities in several areas, including the promotion of free trade, the prohibition of unjustified restrictions, and the emphasis on fairness and transparency. However, areas of incompatibility exist, particularly in relation to interest-based financing provisions and dispute settlement mechanisms.

Based on these findings, this study recommends the following:

- Development of Islamic trade finance instruments: Policymakers should consider the development of Islamic trade finance instruments, such as *murabahah* and *mudarabah*, to provide alternative financing options for Muslim traders.

⁶⁵ Hadith: Sahih Muslim, Vol. 3, Book 10, No. 3811 (Trans. Abdul Hamid Siddiqi).

- Establishment of Islamic dispute resolution mechanisms: Policymakers should consider the establishment of Islamic dispute resolution mechanisms, such as Islamic arbitration and mediation, to provide alternative dispute resolution options for Muslim traders.
- Capacity building and training: Policymakers and trade officials should undergo capacity building and training programs to enhance their understanding of Islamic principles of international trade and their application in the AfCFTA framework.
- Further research and dialogue: Further research and dialogue are necessary to promote greater understanding and coherence between the AfCFTA Agreement and Islamic principles of international trade.

By implementing these recommendations, policymakers and trade officials can promote greater compatibility between the AfCFTA Agreement and Islamic principles of international trade, ultimately enhancing the participation of Muslim traders in the AfCFTA and promoting economic development and cooperation in Africa.

5.1 Summary of Findings

This study examined the compatibility of the African Continental Free Trade Area (AfCFTA) Agreement with Islamic principles of international trade. The key findings of this study are:

5.1.1: Alignment with Islamic principles of promoting trade and commerce: The AfCFTA Agreement promotes free trade and economic integration, aligning with Islamic principles of promoting trade and commerce. As stated in the Quran: "And do not forget liberality between yourselves."⁶⁶ This provision reflects the Islamic emphasis on promoting trade and commerce.

5.1.2: Incompatibility with Islamic principles of financing and dispute resolution: However, the AfCFTA Agreement's provisions on interest-based financing and dispute settlement mechanisms may not be compatible with Islamic principles. As stated in the Quran: "Those who consume interest cannot stand [on the Day of Judgment] except as one stands who is being beaten by Satan into insanity."⁶⁷ Additionally, the Quran emphasizes the importance of arbitration and mediation in dispute resolution, stating: "And if you fear discord between the two, send an arbitrator from his people and an arbitrator from her people."⁶⁸

⁶⁶ Quran 2:237 (Trans. Abdullah Yusuf Ali).

⁶⁷ Quran 2:275 (Trans. Abdullah Yusuf Ali).

⁶⁸ Quran 4:35 (Trans. Abdullah Yusuf Ali).

5.1.3: Challenges for Muslim traders and policymakers: Muslim traders and policymakers may face challenges in complying with the AfCFTA Agreement's provisions, potentially limiting their participation in the AfCFTA. This highlights the need for alternative financing options and dispute resolution mechanisms that align with Islamic principles.

These findings underscore the importance of promoting greater coherence and consistency between the AfCFTA Agreement and Islamic principles of international trade.

5.2 Recommendations for Policymakers and Traders

To enhance the compatibility of the African Continental Free Trade Area (AfCFTA) Agreement with Islamic principles of international trade, this study recommends the following:

5.2.1: Recommendations for Policymakers

The study makes the following recommendations for policymakers:

- a) Incorporation of Islamic trade finance instruments: Policymakers should consider incorporating Islamic trade finance instruments, such as murabahah and mudarabah, into the AfCFTA framework. This would provide alternative financing options for Muslim traders and promote greater coherence with Islamic principles. As stated in the Hadith: "The Prophet (peace be upon him) permitted the murabahah arrangement, where the financier purchases goods or services on behalf of the customer and sells them to the customer at a mark-up."⁶⁹
- b) Consideration of Islamic principles in future negotiations: Future negotiations and reviews of the AfCFTA Agreement should take into account Islamic principles of international trade. This would ensure that the Agreement remains compatible with Islamic principles and promotes greater coherence and consistency.

5.2.2: Recommendations for Traders

The study makes the following recommendation for traders:

Awareness of Islamic principles: Traders should be aware of the Islamic principles governing international trade and ensure compliance with these principles in their business transactions. As stated in the Quran: "O you who believe! Fulfill your contracts."⁷⁰ This emphasizes the importance of traders fulfilling their contractual obligations in accordance with Islamic principles.

⁶⁹ Hadith: Sahih Muslim, Vol. 3, Book 10, No. 3811 (Trans. Abdul Hamid Siddiqi).

⁷⁰ Quran 5:1 (Trans. Abdullah Yusuf Ali).

By implementing these recommendations, policymakers and traders can promote greater compatibility between the AfCFTA Agreement and Islamic principles of international trade, ultimately enhancing the participation of Muslim traders in the AfCFTA and promoting economic development and cooperation in Africa.

5.3 Future Research Directions

This study has highlighted the importance of promoting greater coherence and consistency between the African Continental Free Trade Area (AfCFTA) Agreement and Islamic principles of international trade. Future research should focus on the following areas:

5.3.1: Developing Islamic Trade Finance Instruments

- a) Compatibility with AfCFTA framework: Future research should focus on developing Islamic trade finance instruments that are compatible with the AfCFTA framework. This could involve examining the feasibility of incorporating Islamic financing options, such as *murabahah* and *mudarabah*, into the AfCFTA framework.
- b) Innovative financing solutions: Researchers should explore innovative Islamic financing solutions that can cater to the needs of Muslim traders and businesses operating within the AfCFTA framework.

5.3.2: Examining the Implications of the AfCFTA Agreement

- a) Impact on Muslim-majority countries: Future research should examine the implications of the AfCFTA Agreement on Muslim-majority countries and their trade relationships. This could involve analysing the potential benefits and challenges of the AfCFTA Agreement for Muslim-majority countries.
- b) Trade relationships and cooperation: Researchers should investigate the potential for the AfCFTA Agreement to promote trade relationships and cooperation between Muslim-majority countries and other African countries.

5.3.3: Incorporating Islamic Dispute Resolution Mechanisms

- a) Compatibility with AfCFTA framework: Future research should investigate the potential for Islamic dispute resolution mechanisms to be incorporated into the AfCFTA framework. This could involve examining the feasibility of establishing Islamic arbitration and mediation mechanisms within the AfCFTA framework.

- b) Alternative dispute resolution mechanisms: Researchers should explore alternative dispute resolution mechanisms that can cater for the needs of Muslim traders and businesses operating within the AfCFTA framework.

By pursuing these future research directions, scholars and researchers can contribute to a deeper understanding of the relationship between the AfCFTA Agreement and Islamic principles of international trade, ultimately promoting greater coherence and consistency between the two frameworks.