

**A CRITICAL REVIEW OF THE IMPEDIMENTS TO
INTERNATIONAL TRADE AGREEMENT AND DEVELOPMENT IN
NIGERIA**

ABSTRACT

Nothing absolutely can be done in the world we live today without an exchange of some sort. The exchange could be in technology, ideas, products or goods and services. This exchange of technology, ideas, products or goods and services is what is referred to as trade. Trade can be traced back to the barter system. In Nigeria, trade became more known and appreciated with the emergence of colonial rule which exposed the citizenry to the world of domestic and international transactions or trade. International trade has been an area of importance and interest to government policy makers and as well as economists. Its significance lies squarely and clearly on the ability to access goods and services which can only be manufactured at higher and greater expense. International trade also helps a country to sell her domestically manufactured products to other nations of the world. It is a vital catalyst for economic development. The healthiness of an economy in terms of growth rate or output and per capita income is not only based on the domestic transactions or trade, but also on international trade. That is why nations engage on international trade. However, Nigeria engagement in international trade and International trade agreements have not really led to economic development. The country, notably, has entered into many international trade agreements which ordinarily would have catapulted her to economic growth and development but unfortunately and sadly have not. This paper appraises the barriers to international trade agreements and development in Nigeria. The research methodology adopted in this work is doctrinal. The writer concludes that unless Nigeria becomes an equal partner in international trade agreements and shorn foreign aids, the country will never really gain meaningfully from her involvement in international trade and development.

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Introduction

The world economy since the end of the 2nd World War or so has witnessed amongst other things the birth of sundry international trade and investment framework/agreements. These frameworks/agreements which are usually bilateral or multilateral, are meant to encouraging global and regional trade cooperation and integration. International agreement on the exchange of goods and services across borders are based on reciprocal character of the parties involved, and are geared towards achieving mutual benefits for them¹. Agreement of that nature are usually motivated by the hunger and thirst to build and establish a trade and financial structure which can readily strengthen domestic markets and promote growth and development amongst parties. Such agreements can be on issues that range from free trade areas over custom unions to more ambitious forms of regional economic integration². The terms and conditions of the agreement, most times, seek to sustain or restrain economic order for the members especially for the emerging market economies and developing countries of the world. Nigeria as a developing country and Africa's largest economy, belongs to and have committed to a lot of international trade deals or agreements. In the year 2000, Nigeria and the United States of America signed a trade and Investment Framework Agreement (TIFA) of which the Nigerian government trade negotiator was the Federal Ministry of Industry, Trade and Investment (FMITI)³.

¹ Bethlehem, D. et al; *The Oxford Handbook of International Trade Law* (Oup, 2009); Guzman, A. and Pauwelyn, J. *International Trade Law* (Aspen Publisher, 2009); Lowerfeld, A.F., *International Economic Law* (2nd edition, Oup, 2008).

² Norberg, S. 'The Agreement on a European Economic Area (199) 29 CMC Rev 1171 ff; O'Keefe, T.A., *Latin American and Caribbean Trade Agreements* (Drill Academic Publishers, 2009).

³ <https://ustr.gov/trade-agreements/trade-investment-framework-agreement>.

Recently, the Nigerian president, Muhammadu Buhari, on 7th of July 2019, signed an agreement establishing the African Continental Free Trade Area (“AFCFTA Agreement” or the Agreement”)⁴. The Agreement among other things, seeks to create a single market for goods, services and investment within the African continent. In spite of the country's huge involvement in numerous international trade agreements and deals, Nigeria appears to have not come close to getting the best out of her trade engagements. The country, it is obvious, has remained a beggarly nation, soliciting for funds and other helps every now and then from countries she would have stood to do business with as equal partners in trade. It is against this background that this work seeks to critically review the barriers to international trade agreements and development in Nigeria.

The Concept of International Trade

International trade is also known as foreign trade. International trade is the exchange of capital, goods, and services across international borders or territories⁵. It is the exchange of goods between two or more states. International trade more so, is a field in economics that applies microeconomic models to aid the understanding of international economy. It deals with the business transaction between citizens of different nations. The essence of international trade is specialization. In other words, the genesis of international trade, as it were, lies in the comparative cost advantage between nations. The dichotomy could be as a result of varying factor endowment of the nature or degree of ecological advancement and capital formation.

⁴ <https://www.reuters.com>article>nigeria>signs>africa>free>trade>agreement>. accessed 4/2/2019

⁵ 5. ^"Trade – Define Trade at Dictionary.com”

The presence of such factors of production may give birth to cost differential along with scales of production in different nations or states. For instance, a state which is naturally favoured and blessed with the capability of manufacturing or producing low cost goods in large quantities, has a glaring motivation to export such goods and import the ones which are scarce or costly in that state/country.

The integration and interdependence of the world economics is fast growing in our modern world of globalization and liberalization of trade. The process of international trade has become a veritable tool in the mortal hands of states as it is obviously being taken advantage of to increase the level of income and fortunes of nations along with the welfare of countries that are participants. International trade is very essential to the maximization and optimization of production in our world. It helps to increase in a great way the per capital productivity during the primary age and stage of industrialization of developing countries, and also ensure the maintenance of high productivity levels in developed states. International trade provides the needed scope for the effective and efficient exploitation and allocation of the world's scarce resources. In international trade, economic exploitation of one state by another state is not easy and often impossible as there are various buyers to purchase her products or goods and she could also purchase from various states. Aside economic importance or significance and impact, international trade creates avenues for mutual relationship, harmony, understanding and peace amongst states. It makes the people to realize that they live in a world of mutual interdependence⁶.

⁶ Woytuisky, W.S. and Woytinsky, E.S. "World Commerce and Government Trends and Outlook". The Lord Baltimore Press, New York, 1995, pp. 30-31.

International trade can be bilateral when it is between two countries, multilateral when it involves more than two countries, etc. Foreign trade offers a consumption possibility frontier that can give us more of all goods than can own domestic production possibility frontier⁷.

International Trade Agreement

International trade agreement are agreements across national borders that reduce or eliminate trade barriers to promote economic exchange⁸. It refers to the trade agreement between states where they determine the tariff and duties to impose on imports and exports. Further, it is the exchange agreement between nations or trading groups which gives each party favoured trade status pertaining to certain goods obtained from the signatories. The agreements may come in the form of removal or reduction of trade barriers such as tariffs, quota/quantitative restrictions and other forms of trade related concessions. They cover all imports and exports, certain categories of goods, or a single category. International trade agreements also determine the tariffs (taxes and duties) that countries impose on imports and exports. For most countries, international trade agreement is regulated by unilateral barriers of several types, including tariffs, non tariffs barriers and outright prohibition⁹. Historically speaking, nations world over have increasingly and interestingly embraced international trade agreements at all levels. In the African continent, international trade agreements dates back to 202BC and AD220. Ancient trade relations between China and African continent for instance, date back as far as the 14th century journey of Ibn Batutta, the Moroccan scholar and traveler, to parts of China¹⁰.

⁷ Samuelson, P.A., Economics, Grow Hill, H.C, Koyakusha Ltd, 1973, p 643.

⁸ www.thebalance.com/investing/U.S.Economy/DefinitionofEconomicTerms/TradePolicyDefinitions
Accessed
17/01/2019

⁹ www.britannica.com/.../trade-agreement. Accessed 17/01/2019

¹⁰ Ooi, K.G. "Southeast Asia: a historical encyclopedia, from Angkor Wat to East Timor". (2004) ABC-CL10, 626

International trade agreement can be bilateral or multilateral. It is bilateral when it involves, two states i.e., an agreement between two countries under which the parties agree to completely remove or reduce barriers to trade between them. It is multilateral when it has to do with more than two states (countries). While multilateral trade agreements however are usually negotiated through the World Trade Organization (WTO) between several countries, the central goal of bilateral trade agreements is to give two countries expanded access to each other's markets¹¹. The bilateral trade agreements are usually referred to as, “preferential” agreements because they are discriminatory in favour of the participants to which they relate and to the exclusion of other countries. In this sense, bilateral trade agreements go against the World Trade Organization's requirement that all members should have equal access to respective markets worldwide¹².

Why International Trade Agreements?

International trade agreements, as it were, benefit countries that are parties to them in a number of ways. Some of the benefits have been identified to include the following:

- International trade agreements stimulate economic growth and ensure that there is stability and security in the countries that are parties to them.
- They help to alleviate and/or reduce poverty in states that are parties to them if effectively drafted and religiously executed and utilized.
- International trade agreement help to reduce drastically the issue of unemployment in the states that are parties to them if properly and effectively executed.

¹¹ Bilateral Trade Agreements, <http://useconomy.about.com/od/glossary/g/bilateral.htm>. Accessed 17/01/2019

¹² Obradovic, L., “The role of bilateral and regional trade agreements in the modernization of taxation and revenue policy in developing economy” (92012)6(2) World Customs Journals 73.

- They foster peace, harmony and cooperation among nations.
- International trade agreements promote growth, productivity and structural reforms in countries that are parties to them.
- They encourage higher levels of skills and wages within the economy.

Features of International Trade Agreement

a. Pacta Sunt Servanda

Pacta Sunt Servanda is a Latin word used in international law to mean that “agreement must be kept”. It is simply an expression signifying that the agreements and stipulations of the parties to a contract must be observed¹³. The rule of Pacta Sunt Servanda is based upon the principle of good faith. The basis of good faith indicates that a party to the agreement cannot invoke provisions of its domestic law as a justification for a failure to perform its obligation. The only limit to Pacta Sunt Servanda is the peremptory norms of general international law known as “*jus cogens*” which means “compelling law”. Pacta Sunt Servanda is a very important feature of international trade agreement and it applies to both bilateral and multilateral levels of international trade agreement.

b. Reciprocity

This is another important feature of international trade and it involves returning like behavior with the like. Reciprocity is considered a generally accepted principle of international law applied in international relations under which a state adopts a given behavior symmetrical in response to that adopted by another state¹⁴.

¹³ West's Encyclopedia of American Laws, 2nd Edition, 2008

¹⁴ www.britannica.com/topic/international-law/international-law-and-municipal-law,ref794916
Accessed 18/01/2019

In international trade agreement, parties usually provide for the exchange of goods and services between them at lower tariffs and better terms than that which exists between one of the parties and other countries. A party, therefore, in international trade, is expected to reciprocate a gesture done to it by another party. That is, under this principle, a contracting state is expected and in deed required to concede to other states tariffs preferences and/or deductions of the same order as the preferences that the state has obtained for itself.

c. Most Favoured Nation (MFN)

The Most-Favoured-Nation (MFN) concept in international trade agreement aims at eliminating discrimination at all times in trade agreements. By virtue of this principle, every tariffs concession granted by one contracting state to another contracting state must unconditionally be extended to the other contracting states. A-Most-Favoured-Nation clause in a treaty or international trade agreement allows the parties to that agreement or treaty (and their nationals) to benefit from the advantages granted to another (third) state (or its nationals) in another treaty concluded between one of the parties to the first treaty and the third state¹⁵. The principles of most favoured-nation does not apply to bilateral trade agreements as the agreements are “preferential (discriminatory in favour of the participants to which they relate and to the exclusion of other countries. It is the Most Favoured Nation clause, if added or included in the parties' agreement that confers the status. Most Favoured Nation clause is a method of putting an end to discriminating treatment among members of an international trading organization. It provides trade equality among partners by ensuring that an importing country will not discriminate against another country's goods in favour of those from a third country.

¹⁵ Article 1(I) of the GATT, 1994

Barriers to International Trade and Development in Nigeria

The import of international trade to the economic welfare and development of a nation has been dealt with in so many economic literature¹⁶. Global markets offer vast commercial opportunities which far outweighs opportunities that exist within a domestic domain. It is against this background that nations always enter into agreements with other nations internationally for trade purposes. International trade agreements have tremendous economic, social and developmental advantages on countries that are parties to them. Nigeria as a country is in search for better economic growth and development and like other developing states, belongs to a good number of international trade agreements. The country has signed many international trade agreements in an effort to attain economic growth and development. However, despite being signatory to those agreement, the country is yet to gain meaningfully from her numerous trade engagements and agreements. According to Dr. John Isemeye, an international trade expert with United Nations Industrial Development Organization (UNIDO), while responding to Newsmen in Lagos on 6th October, 2016¹⁷.

It is a bitter truth that Nigeria has gained almost nothing from trade agreements that we are into.... Nigeria is not really doing business with the world, but just trading.

¹⁶ Morgan, R., and Katsikeas, C.S. (1997). "Theories of International Trade, Foreign Direct Investment and Firm Internationalization: A critique of the Management Decision". Pp. 68-78. Cardiff Business School, University of Wales, UK. MCB University Press. Accessed 4/02/2019

¹⁷ www.sunnewsonline.com/we're-being-beaten-on-international-trade 8&q=Bo+Liu+2005,+“Problems+on+Admissibility+of+Electronic+Evidence+in+the+Chinesse+Context.”.Last accessed on 8th April, 2017.

Speaking further on this issue, Dr. John Isemede noted that:

Nigeria currently has signed more than 100 trade policies in the last decade, none of which has impact, because we lack adequate capacity unlike our other countries in these agreements.

There are so many factors that have made it almost impossible for Nigeria to achieve development through her international trade agreements or dealings. Some of the factors have been identified and carefully discussed below:

a. Nigeria's Gross Inability and Lack of Capacity to Negotiate Beneficial International Trade Agreements: the major challenge why Nigeria and indeed all other African states are not getting the best out of their international trade agreements is their failure to harness and utilize available capacity needed to negotiate with the developed nations beneficial trade agreements. Usually, the international trade agreement always involve nations whose development and sophistication are not in the same level and pace with Nigeria and other African nations, and sometimes, the agreement involves mere reduction in current tariffs and non-tariff import controls. This type of agreement affords little or no economic and developmental gain or benefit to Nigeria and other Africa states. Nigeria, it is advised, should always think of more beneficial trade agreements than entering into a deal for just mere reduction of tariffs and non-tariff import controls. More so, given the low production capacity and technical shortcoming or deficiencies, the volume of export goods from Africa is very low and often, it can be of very doubtful quality¹⁸.

¹⁸ Sanusi, S.L. (November, 2010) "Growth prospects for the Nigeria Economy", Convocation Lecture Delivered at Igbinedion University, Eight Convocation Ceremony, Okada, Edo State.

For this reason and many more, more advanced countries that enter into such minimal approach Free Trade Agreements with Nigeria and by extension African states, stand a good chance to gain more while African states continue to loose heavily. These advanced countries who usually enter into trade agreement with Nigeria and Africa states, find it easy to access ready markets for their goods produced at very low cost, while that of Nigeria and African nations produced at high cost lie waste without a market to sell them as they are always considered inferior.

b. Poor Export Capacity in non-oil and low Industrial Capacity: Nigeria lacks the adequate export capacity in non-oil and industrial sector of the economy. This is very obvious. The country more so is not utilizing her vast natural resources and sadly she lacks what it takes to process and export those natural resources like other countries that she entered into international trade agreements with. Most of Nigeria's farm produce have been unfortunately rejected in the European Union Countries because of the high amount of pesticides, poor storage methods and other defects, yet Nigeria is the highest producer of most of those foods.

c. Economic and Political Instability: This is another serious challenge facing international trade agreement and development in Nigeria and other African countries. Economic and political instability account for most of the problems faced by Nigeria and her performance in international trade. The International Monetary Fund (IMF) reported that several studies have found that the declining share of African products in global trade can be attributed and explained by its income level or growth, population size, geography and economic policy¹⁹.

¹⁹ *Ibid*

Widespread of conflicts and crisis of all manners, terrorism robbery, banditry, kidnapping and hostage-taking affects international transactions or trade and development.

d. **Poor Marketing Capacity:** Nigeria lacks the marketing skill to export her goods and gain from her international trade deals. The country lacks or has poor marketing capacity to convince and make her goods attractive to other nations. That's why most countries reject her goods thereby making the country not to gain from her numerous trade engagements.

e. **The Beggarly Status of Nigeria:** Another problem that affects international trade agreement and development in Nigeria and other African states is the prevalent idea or the belief that Nigeria and indeed Africa is a troubled continent perpetually and constantly in need of help rather than viable trading partners²⁰. Most of the trade relations between Nigeria (Africa) and other countries are defined usually by preferences and handouts. For example, almost all African states are beneficiaries of the “Everything but Arms Scheme” and the “Generalized Scheme of Preferences” that provide duty free access to the European Union. However, they gain little or nothing from these preferential agreements owing to infrastructural shortcomings and/or defects and the small quantity of their exports²¹.

Conclusion/Recommendation

This paper has looked at what international trade and international trade agreement are all about. The research paper has also looked at the features and the benefits.

²⁰ Brest, D.S., Anthony, B.K., and Charlotte, F. “Congress should give the way for U.S – African Free Trade Agreement”. www.heritage.org/research/reports/2013/08/congress.should-gave-way-for-a-USafrica-free-trade-agreement. Accessed 19/01/2019

²¹ *Ibid*

The argument in this paper is that Nigeria as well as other African states have not gotten the best out of international trade agreements as it relate to development. We also considered in this paper some of the problems that affect the performance of Nigeria and other African states in international trade agreements. Above the seemingly obvious obstacles such as lack of infrastructure, a weak manufacturing base and poor economic policies, there is a very urgent need for Nigeria and African states to change the way they present themselves to the rest of the world. The Africa continent has played the beggar role at the international community for a long time while under-utilizing her vast natural and human resources. There is every big need for Nigeria and in deed other African states to adopt the view that they can be equal partners with other developed countries rather than object of aids and exploitation. Nigeria as the supposed giant of Africa needs to demonstrate her potentials for sustained growth by showing readiness to make concerted efforts to improve and become worthy force in the global market. The time to do that is now!