



## DEMYSTIFYING THE LEGAL BURDEN FOR THE IMPLEMENTATION OF THE AFRICAN CONTINENTAL FREE TRADE AGREEMENT, 2018 IN NIGERIA: LEGAL CHALLENGES AND OPPORTUNITIES

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### Abstract

*The paper examined the African Continental Free Trade Agreement, 2018 and its impacts on Nigeria, the opportunities, and challenges. The paper adopted the doctrinal method of research with primary from AfCFTA and other laws, while the secondary source from journal articles, textbooks, and internet sources. The paper revealed that AfCFTA happened to be one of the bold and ambitious initiatives which sought to unbundle the economic potential of African countries by eliminating tariffs and non-tariffs barriers, such as permits, licences, burdensome customs procedures to Intra-African trade, facilitate free movement of persons and investments, create a more competitive, yet sustainable environment for cross border trade and progressively liberalize trade in services. The paper further revealed, some of the benefits of AfCFTA to Nigeria, which included the elimination of tariff and non-tariff barriers will grant Nigerian businesses access to the continental market for the export of goods and services to other member states at a reduced cost, Nigeria will secure a more balanced and sustainable export base by moving away from extractive commodities, such as oil and minerals, which had traditionally accounted for most of Nigeria's exports, manufacturers and producers will also benefit from economies of scale and have access to cheaper raw materials and intermediate inputs, improved competition in the quality of services and goods, job creation and reduction in the high employment rate and progressive liberalization of the service sectors. Despite the many advantages that Nigeria can gain from its subscription to the AfCFTA, there has been several obstacles that the Nigerian government must overcome to take full advantage of the opportunities that AfCFTA has to offer. Therefore, the paper revealed that the biggest challenge the government would face is the decline in tariff revenue because of the elimination of tariffs and duties on imported products, which had long the Nigerian government would need to strengthen its institutional capacity to ensure that all goods and services to be imported into the country comply with international standards.*

**Keywords:** AfCFTA, Opportunities and Challenges

### 1.0 Introduction

The African Continental Free Trade Area (AfCFTA) is a landmark agreement aimed at creating a single market for goods and services across the African continent. It was officially launched in January 2021 and is considered the largest free trade area in the world by the number of participating countries, with 54 out of 55 African Union (AU) member states signed on.<sup>3</sup>

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<sup>3</sup> AfCFTA, article 2,3 and 4.



The general objectives of the Agreement are to create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of ‘An integrated, prosperous and peaceful Africa’ enshrined in Agenda 2063, create a liberalised market for goods and services through successive rounds of negotiations, contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and regional economic communities, lay the foundation for the establishment of a continental customs union at a later stage, promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties, enhance the competitiveness of the economies of State Parties within the continent and the global market, promote industrial development through diversification and regional value chain development, agricultural development and food security and resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes.<sup>4</sup>

For Nigeria, as the most populous country in Africa and one of its largest economies, the AfCFTA presents both opportunities and legal challenges. Nigeria stands to benefit from expanded market access within Africa. By eliminating tariffs on goods and reducing non-tariff barriers, Nigerian businesses can tap into a larger consumer base across the continent. AfCFTA encourages diversification of Nigeria’s exports beyond oil. This could stimulate growth in sectors such as agriculture, manufacturing, and services, increased trade and economic integration can attract more foreign direct investment (FDI) into Nigeria, especially from countries seeking to leverage the AfCFTA for market expansion. Furthermore, with increased trade and economic activity, there’s potential for job creation across various sectors as businesses expand to meet continental demand. Nigeria needs to align its domestic laws with AfCFTA protocols and regulations, which may require significant legal reforms and administrative capacity building.<sup>5</sup>

There are concerns about the impact of increased competition on vulnerable sectors of the economy, particularly small-scale industries, and agriculture.<sup>6</sup> Ensuring effective intellectual property rights protection is crucial to fostering innovation and attracting investment under the AfCFTA.<sup>7</sup> Streamlining customs procedures and enhancing border management will be essential to facilitate smooth trade flows and prevent illicit activities. While the AfCFTA offers promising opportunities for Nigeria to boost intra-African trade and economic growth, addressing legal challenges and ensuring effective implementation will be key to maximizing its benefits and mitigating potential risks.<sup>8</sup>

The African Continental Free Trade Agreement is a bold and well-intentioned step towards increasing Africa’s relevance in the global market and taking advantage of its huge population and markets, and present both advantages and disadvantages for Nigeria and the broader African continent.<sup>9</sup> For Nigeria, some advantages of the AfCFTA include opening and enhancing access to African markets,

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<sup>4</sup> AfCFTA, article 3 (a-h).

<sup>5</sup> G Mhonyera, ‘The Impact of AfCFTA on Welfare and Trade: Nigeria and South Africa considering core Export Competences’ [2003] (15) (6) *Journal of Sustainability* 5090.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> I Kemi, ‘The AfCFTA: Trade and Investments Benefit for Nigeria’ [2021] (8) (2) *Journal of African Trade* 49-61.

<sup>9</sup> *Ibid.*

diversification of the economy, increased trade and profit opportunities, and the potential for fulfilling its industrialization targets. These benefits can lead to more economic growth, improved competitiveness of Nigerian firms, and creation of more jobs.<sup>10</sup> However, the anticipated or actual benefits of AfCFTA cannot be divorced from its potential disadvantages. Nigerian firms may face increased competition from more efficient industries in other African countries, which could negatively impact domestic industries and employment.<sup>11</sup>

## **2.0 Understanding the Elementary Downsides of AfCFTA**

The African Continental Free Trade Area (AfCFTA) presents both opportunities and challenges for Nigeria, reflecting broader issues that require careful consideration and strategic responses.

Firstly, potential disruption to local industries, Nigeria's local industries, particularly small and medium enterprises (SMEs) and agriculture, may face increased competition from imports under AfCFTA, potentially leading to displacement of domestic producers and loss of market share.

Secondly, revenue loss from tariff reductions, Nigeria currently generates significant revenue from customs duties and tariffs. AfCFTA's tariff reductions could lead to initial revenue loss, necessitating alternative revenue streams and fiscal adjustments. Also, inadequate infrastructure and inefficient trade facilitation processes could hinder Nigeria's ability to fully capitalize on AfCFTA, leading to bottlenecks in trade flows and increased transaction costs.<sup>12</sup>

Furthermore, aligning Nigeria's domestic policies and regulations with AfCFTA's standards and protocols poses challenges, requiring comprehensive legal reforms, institutional capacity building, and policy coherence. In addition, ensuring robust intellectual property rights protection is essential for fostering innovation and attracting investment under AfCFTA. Nigeria needs effective mechanisms to enforce IP laws and regulations. Nigeria needs a comprehensive strategy to navigate the complexities of AfCFTA, leveraging its potential benefits while addressing the inherent challenges.<sup>13</sup>

## **3.0 Basic Conceptual Clarifications**

### **a. African Continental Free Trade Agreement**

The Africa Continental Free Trade Agreement is a trade agreement entered into by African countries to create the world's largest free trade area by creating a single market for goods and services for Africa's population of nearly 1.463 billion people.<sup>14</sup> The aim of this ambitious project is to deepen and accelerate the economic integration of Africa. It is estimated that the free trade area could have a combined gross domestic product of around \$3.4 trillion.<sup>15</sup> However, achieving its full potential depends on significant policy reforms and trade facilitation measures across African signatory nations.<sup>16</sup>

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<sup>10</sup> C C Wigwe, *International Economic and Trade Laws* (Owerri: Zubic Infinity Concept 2023) 286.

<sup>11</sup> *Ibid.*

<sup>12</sup> N Oulmane and Others, 'Quantifying the Impact on Nigeria of the African Continental Free Trade Area' [2020] *Journal of Research and Development* 20-25.

<sup>13</sup> *Ibid.*

<sup>14</sup> <https://www.worldometers.info/world-population/africa-population/> accessed 19 May 2024.

<sup>15</sup> C C Wigwe, *International Economic and Trade Laws* (Owerri: Zubic Infinity Concept 2023) 266.

<sup>16</sup> *Ibid.*

Notably, the general objectives of the Agreement are to create a single market for goods, services, facilitated by movement of persons in order to deepen the economic integration of the African continent and in accordance with the Pan African Vision of ‘An integrated, prosperous and peaceful Africa’ enshrined in Agenda 2063, create a liberalised market for goods and services through successive rounds of negotiations, contribute to the movement of capital and natural persons and facilitate investments building on the initiatives and developments in the State Parties and regional economic communities, lay the foundation for the establishment of a continental customs union at a later stage, promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation of the State Parties, enhance the competitiveness of the economies of State Parties within the continent and the global market, promote industrial development through diversification and regional value chain development, agricultural development and food security and resolve the challenges of multiple and overlapping memberships and expedite the regional and continental integration processes.<sup>17</sup>

### **b. Non-Tariff Barriers**

Non-tariff barriers (NTBs) refer to restrictions or obstacles to international trade that are not in the form of tariffs, for instance customs duties or taxes on imports.<sup>18</sup> NTBs can take various forms and are used by governments to regulate trade, protect domestic industries, or address specific policy objectives. Unlike tariffs, which directly increase the cost of imported goods, NTBs can affect trade flows through indirect means.<sup>19</sup>

Furthermore, restrictions on foreign exchange transactions or manipulation of exchange rates can affect the competitiveness of imported goods. Preferential treatment given to domestic suppliers in government procurement processes, limiting opportunities for foreign suppliers.<sup>20</sup> Non-tariff barriers are often more challenging to quantify, and address compared to tariffs due to their diverse nature and indirect impact on trade.<sup>21</sup> They can hinder market access, increase costs for businesses, and reduce the efficiency of international trade. Addressing non-tariff barriers requires transparency, cooperation, and adherence to international trade agreements and standards to promote fair and equitable trade practices.

### **c. Trade Liberalization**

Trade liberalization refers to the process of reducing barriers to international trade and promoting greater openness in trade relations between countries.<sup>22</sup> It involves removing or reducing restrictions such as tariffs, quotas, and other non-tariff barriers that impede the free flow of goods, services, and capital across borders.<sup>23</sup> The goal of trade liberalization is to foster economic growth, enhance efficiency, and maximize welfare by allowing countries to specialize in producing goods and services

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<sup>17</sup> AfCFTA, 2018, article 3 (a-h).

<sup>18</sup> N Nwoko, ‘Nigeria and the African Continental Free Trade Agreement: Issues, Challenges, and Prospects’ [2019] (7) (2) *Social Sciences Research Journal* 237-250.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> D Thomas, ‘African Business: What You Need to Know About the African Continental Free Trade Area’ (May 18 2023) <http://african.business/2023/05/trade-investment/what-you-need-to-know-about-the-african-continental-free-trade-area> accessed 30 February 2024.

<sup>22</sup> *Ibid.*

<sup>23</sup> Tralac Infographics, ‘Status of AfCFTA Ratification’ (2023) <https://www.tralac.org/resources/infographic/13795-status-of-afcfta-ratification.html> accessed 30<sup>th</sup> March 2023.

where they have a comparative advantage.<sup>24</sup> Furthermore, lowering or eliminating tariffs (import duties) on imported goods, which reduces the cost of imports and makes foreign goods more competitive in domestic markets. Removing quantitative restrictions on the quantity of goods that can be imported or exported, thereby increasing market access for foreign producers.<sup>25</sup>

Streamlining or eliminating non-tariff barriers such as import licensing requirements, technical regulations, sanitary and phytosanitary measures, and customs procedures to facilitate smoother trade flows.<sup>26</sup> Negotiating and signing trade agreements, such as free trade agreements (FTAs) or regional trade blocs, that commit participating countries to liberalize trade by reducing trade barriers and harmonizing trade rules. Also, ensuring equal and non-discriminatory access to markets for foreign goods and services, promoting fair competition and efficiency.<sup>27</sup>

Trade liberalization encourages competition, leading to lower prices, improved product quality, and greater consumer choice.<sup>28</sup> Countries can specialize in producing goods and services where they have a comparative advantage, leading to resource allocation efficiency and higher overall productivity.<sup>29</sup> Trade liberalization promotes economic growth by expanding market opportunities, attracting foreign investment, and stimulating innovation and technological advancement.<sup>30</sup> By fostering economic growth and creating employment opportunities, trade liberalization can contribute to poverty reduction and improved living standards.<sup>31</sup>

However, trade liberalization can also pose challenges, such as adjustment costs for industries facing increased competition, potential job displacement in certain sectors, and the need for adequate social safety nets and support measures to assist affected workers and communities.<sup>32</sup> Effective trade policy must balance the benefits of increased openness with the need to address potential adverse effects and ensure inclusive economic development.<sup>33</sup>

#### **d. Intra-African Trade**

Intra-African trade refers to the exchange of goods and services among countries within the African continent.<sup>34</sup> It specifically involves trade transactions conducted between African countries, encompassing exports and imports of goods, as well as trade in services such as tourism, transportation, and financial services.

Intra-African trade involves economic transactions and exchanges occurring between African countries, both within regions (such as West Africa, East Africa, Southern Africa) and across the entire continent. It encompasses the flow of goods and services moving across borders within Africa, including exports

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<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> A R Alfa Shaban, 'Eritrea Defends Decision to Sit Out Africa Free Trade Pact-For Now (29 July 2023) African News <https://www.africanews.com/2020/07/29/eritrea-defends-decision-to-sit-out-africa-free-trade-pact-for-now/> accessed 30<sup>th</sup> March 2023.

<sup>27</sup> *Ibid.*

<sup>28</sup> I Kemi, 'The AfCFTA: Trade and Investments Benefit for Nigeria' [2021] (8) (2) *Journal of African Trade* 49-61.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

<sup>31</sup> V Parminder, 'Benefits of the African Continental Free Trade Agreement (AfCFTA) to African SMEs (2023) <https://www.linkedin.com/pulse/benefits-african-continental-free-trade-area-afcfta-smes-vir-obe> accessed 20/3/2023.

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> O Olayinka, 'The Impact of AfCFTA on Nigerian Trade' [2021] (15) (2) *Journal of African Trade* 34-56.

of manufactured products, agricultural commodities, minerals, and services like banking and telecommunications.<sup>35</sup>

Intra-African trade reflects efforts to promote economic integration and regional cooperation among African countries through initiatives like trade agreements, regional economic communities (RECs), and continental frameworks such as the African Continental Free Trade Area (AfCFTA). Intra-African trade faces various challenges, including infrastructure deficiencies, trade barriers, administrative hurdles, and logistical constraints. However, it also presents significant opportunities for economic growth, job creation, and poverty reduction by leveraging Africa's diverse resources and markets. Promoting and increasing intra-African trade is seen as a strategic priority for fostering economic development, industrialization, and regional integration across the continent. Initiatives like the AfCFTA aim to further enhance intra-African trade by reducing trade barriers, harmonizing trade regulations, and creating a single continental market that facilitates the movement of goods, services, capital, and people among African countries. Ultimately, stronger intra-African trade can contribute to Africa's socioeconomic transformation, resilience, and global competitiveness.<sup>36</sup>

#### **e. Tariff Reduction**

Tariff reduction refers to the process of lowering or decreasing tariffs, which are taxes or duties imposed on imported goods when they cross a country's border. Tariffs are a form of trade barrier that can make imported goods more expensive for consumers and businesses in the importing country.<sup>37</sup> The primary goal of tariff reduction is to promote international trade by reducing the cost of imported goods, making them more competitive in the domestic market compared to domestically produced goods. Tariff reduction is often part of broader trade liberalization efforts aimed at fostering economic growth, increasing market efficiency, and promoting competition.<sup>38</sup> By lowering tariffs, countries can encourage imports, stimulate consumer choice, and enhance market access for foreign producers.<sup>39</sup>

Tariffs can be specific (fixed amount per unit of goods) or ad valorem (percentage of the value of goods). Tariff reduction can involve across-the-board cuts in tariff rates or targeted reductions for specific products or sectors. Tariff reduction can lead to several benefits, including lower prices for consumers, increased variety and quality of goods, enhanced competitiveness of domestic industries through exposure to international competition, and overall economic growth.<sup>40</sup> Tariff reduction is often negotiated and implemented through trade agreements between countries or regional trade blocs. These agreements specify tariff reduction schedules and commitments to facilitate trade between participating parties. While tariff reduction can stimulate economic activity and promote efficiency, it can also pose challenges for certain industries that may face increased competition from imports. Governments may need to implement supportive measures, such as trade adjustment assistance or sector-specific policies, to mitigate adverse effects on affected industries and workers.<sup>41</sup> Tariff reduction plays a crucial role in shaping global trade dynamics and promoting economic integration. By lowering barriers to trade,

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<sup>35</sup> *Ibid.*

<sup>36</sup> B Akanbi, 'Economic Implications of AfCFTA for Nigeria' [2020] (14) (3) *Nigerian Economic Review* 78-95.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> C Nwosu, 'AfCFTA and the Future of Nigerian Manufacturing' [2022] (16) (1) *West African Policy Journal* 112-130.



countries can benefit from increased specialization, resource allocation efficiency, and welfare gains for consumers and businesses alike.<sup>42</sup>

#### **f. Trade Facilitation**

Trade facilitation refers to the simplification, streamlining, and harmonization of international trade procedures, processes, and documentation to expedite the movement of goods across borders and reduce transaction costs.<sup>43</sup> The primary objective of trade facilitation is to enhance the efficiency, transparency, and predictability of international trade transactions, ultimately promoting economic growth, competitiveness, and development.<sup>44</sup> Simplifying customs clearance processes, including documentation requirements, valuation procedures, and risk management systems, to expedite the release of goods at borders. Standardizing and harmonizing trade-related documents, such as customs declarations, import/export licenses, certificates of origin, and transit documentation, to facilitate smoother trade flows.<sup>45</sup>

Implementing electronic systems and platforms, single window systems for submitting trade-related documents and payments electronically, reducing paperwork and processing times. Improving transport infrastructure, logistics services, and trade facilitation infrastructure such as ports, airports, and border crossings to enhance connectivity and reduce transit times. Also, implementing risk-based approaches to customs controls, pre-arrival processing of goods, and post-clearance audits to improve compliance while minimizing disruptions to legitimate trade. Strengthening the capacity of customs administrations, trade regulatory bodies, and relevant institutions to implement trade facilitation measures effectively and efficiently.<sup>46</sup> Streamlining trade procedures and documentation lowers transaction costs associated with international trade, making goods more affordable and competitive. Efficient customs procedures and reduced administrative delays lead to quicker clearance of goods at borders, minimizing transit times and improving supply chain efficiency.<sup>47</sup>

By making trade easier and more predictable, trade facilitation initiatives can stimulate increased trade volumes, benefiting both importers and exporters. Improved trade facilitation contributes to the overall competitiveness of businesses by enabling faster delivery of goods, reducing inventory costs, and improving market access. Trade facilitation supports economic development by attracting investment, fostering innovation, and promoting job creation in trade-related sectors.<sup>48</sup> Trade facilitation is recognized as an essential component of trade policy and economic development strategies, with widespread benefits for both developed and developing countries seeking to integrate into the global economy and leverage international trade for growth and prosperity.<sup>49</sup>

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<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> F Ahmed, 'Nigeria's Readiness for AfCFTA: Challenges and Opportunities' [2021] (15) (4) *Journal of International Business* 45-67.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*



#### **4.0 African Continental Free Trade and Its Impact on Nigeria: Opportunities And Legal Challenges**

##### **4.1 Legal Appraisal of the African Continental Free Trade Agreement**

The African Continental Free Trade Area (AfCFTA) Agreement, signed in 2018, is a landmark trade agreement aimed at promoting intra-African trade and economic integration.<sup>50</sup> Article 3 outlines the objectives of the AfCFTA, which include creating a single market for goods and services, promoting industrial development, and enhancing competitiveness among African nations.<sup>51</sup> For Nigeria, aligning with Article 3 involves leveraging AfCFTA to diversify the economy beyond oil dependence and promote inclusive economic growth through increased trade and investment within Africa, article 4 commits participating countries to progressively eliminate tariffs and non-tariff barriers to trade on goods. For Nigeria, this implies reducing trade barriers to enhance market access for Nigerian goods and promote export-led growth within the African market, article 5 addresses trade in services, aiming to liberalize services sectors across Africa.<sup>52</sup> Nigeria can benefit from increased services trade under AfCFTA by promoting sectors such as telecommunications, financial services, and professional services within the African market, article 7 focuses on trade facilitation measures, including customs cooperation, simplification of trade procedures, and harmonization of standards. Nigeria faces challenges related to improving trade facilitation infrastructure and enhancing customs efficiency to fully benefit from AfCFTA, article 8 aims to address non-tariff barriers (NTBs) to trade, such as technical regulations and sanitary measures. Nigeria needs to identify and address NTBs that impede intra-African trade and harmonize standards to promote smoother trade flows under AfCFTA and article 9 establishes rules of origin criteria to determine the eligibility of goods for preferential treatment under AfCFTA. Nigeria must ensure compliance with rules of origin requirements to benefit from tariff preferences and prevent trade deflection within the African market.<sup>53</sup> Furthermore, article 3 of the AfCFTA Agreement emphasizes the gradual elimination of tariffs and non-tariff barriers to trade among member states. This article promotes tariff reduction and trade liberalization, facilitating increased market access for Nigerian goods and services within Africa. For example, under AfCFTA, Nigeria can benefit from reduced tariffs when exporting products such as agricultural goods, textiles, and manufactured items to other African countries.<sup>54</sup>

Also, article 4 outlines rules of origin criteria to determine the eligibility of goods for preferential treatment under AfCFTA. The article clear rules of origin help Nigerian exporters qualify for preferential tariff rates within the AfCFTA market. For instance, Nigerian exporters can access reduced tariffs when exporting locally manufactured goods that meet the agreed rules of origin criteria to other African countries.<sup>55</sup>

Also, article 5 focuses on simplifying customs procedures, enhancing cooperation in customs matters, and promoting trade facilitation measures. Improved trade facilitation under AfCFTA streamlines

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<sup>50</sup> AfCFTA, 2018.

<sup>51</sup> *Ibid.*

<sup>52</sup> AfCFTA, 2018.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

<sup>55</sup> AfCFTA, 2018.





customs procedures, reduces delays at borders, and lowers transaction costs for Nigerian exporters and importers.<sup>56</sup> For example, enhanced customs cooperation can lead to quicker clearance of goods at Nigerian ports, benefiting traders and businesses. Article 20 establishes a mechanism for resolving disputes among AfCFTA member states related to the interpretation or application of the Agreement. Thus, the dispute settlement mechanism provides a legal framework for resolving trade disputes, ensuring compliance with AfCFTA rules. Nigerian businesses can seek recourse through this mechanism if they encounter trade-related disputes with other African countries.<sup>57</sup>

#### **4.2 Potential Impacts of the African Continental Free Trade Agreement**

Nigeria signed the African Continental Free Trade Agreement on 7 July 2019 and became the 34<sup>th</sup> member of the Free Trade bloc. Like all other Free Trade Areas, there will be losers and gainers. Even inside a country, there will be areas that the Agreement will impact positively, while other sectors are adversely affected.<sup>58</sup>

##### **a. Increased Foreign Investment**

The AfCFTA creates an attractive investment climate for both domestic and foreign investors. As trade barriers are dismantled, the harmonization of trade rules and regulations simplifies cross border transactions, reduces uncertainty, and lowers the cost of doing business.<sup>59</sup>

This increased ease of trade and investment is likely to attract foreign companies looking to establish a presence in Africa. The World Bank estimates that foreign direct investment inflows into Africa could increase sharply by between 111 percent and 159 percent under the AfCFTA regime.<sup>60</sup>

Expectedly, Nigeria, as a leading economy in Africa, is set to attract a significant portion of the projected increase in FDI. With a population of over 200 million which translates into a large consumer market and a strategic geographic location, Nigeria is in an indispensable position to benefit from expected increase in foreign direct investment inflows.<sup>61</sup> This improvement in FDI will contribute to technology transfer, infrastructure development, and job creation.<sup>62</sup>

##### **b. Market Access and Increased Trade**

One of the strategic benefits of AfCFTA for Nigeria is the expanded market access it provides to business within the country.<sup>63</sup> By its membership of the trading bloc and its participation in the Agreement, Nigerian businesses now have access to a vast market of over 1.3 billion people across the African continent. This entry into the continental market presents Nigerian businesses with new opportunities to expand their horizons and increase trade with other African countries. A study by the

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<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*

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<sup>59</sup> Lagos State Employment Trust Fund, 'The African Continental Free Trade Area and Opportunities for MSMEs in Nigeria March 9 2024 <https://isetf.ng/content/african-continental-free-trade-area-afcfta-and-opportunities-msmes-nigeria>> accessed April 2024.

<sup>60</sup> World Bank, 'Free Trade Deals Boost Africa's Development' June 2023 <https://www.worldbank.org/en/topic/trade/publication/free/trade-deal-boosts-africa-economic-development> accessed 4 March 2024.

<sup>61</sup> National Bureau of Statistics, Nigeria Multidimensional Poverty index' 2024 <https://nigerianstat.gov.ng/elibrary/1241254> accessed 4 May 2024.

<sup>62</sup> *Ibid.*

<sup>63</sup> Lagos State Employment Trust Fund, 'The African Continental Free Trade Area and Opportunities for MSMEs in Nigeria March 9 2024 <https://isetf.ng/content/african-continental-free-trade-area-afcfta-and-opportunities-msmes-nigeria>> accessed April 2024.



United Nations Economic Commission for Africa estimates that Nigeria could experience a 7 per cent increase in exports resulting from the implementation of AfCFTA.<sup>64</sup>

### **c. Diversification of the Economy**

Many years now, Nigeria has inadvertently transitioned into an economy heavily reliant on oil exports to the detriments of other sectors of the economy. However, with the coming into existence of AfCFTA, Nigeria now can diversify its economy and wean its reliance on oil. Since AfCFTA promotes the development of other sectors of the economy by enhancing regional value chains and reducing trade barriers, Nigeria can benefit from this by expanding its agricultural and manufacturing sectors, which sectors have the capacity to contribute to Nigeria's earnings, boost its economic resilience, and reduce the country's vulnerability to external shocks.<sup>65</sup>

### **d. Enhanced Industrialization**

AfCFTA can contribute to fast-tracking Nigeria's industrialization by boosting intra-continental trade in manufactured and processed goods.<sup>66</sup> To be able to reach foreign markets with Nigeria-made goods, Nigeria needs to build more roads and invest in transport and logistics.<sup>67</sup>

## **4.3 Legal Challenges of African Continental Free Trade Area in Nigeria**

The African Continental Free Trade Area (AfCFTA) poses several legal challenges for Nigeria, which need to be carefully addressed to ensure the successful implementation and maximization of the benefits of the agreement.<sup>68</sup>

### **a. Harmonization of National Laws with AfCFTA Provisions**

Nigeria needs to align its national laws and regulations with the provisions of the AfCFTA. This includes trade, customs, competition, and intellectual property laws. The harmonization process can be complex and time-consuming. Nigeria's Customs and Excise Management Act (CEMA) may need to be updated to reflect new tariff schedules and customs procedures under the AfCFTA. Aligning these laws requires thorough legal reviews and amendments, which can face bureaucratic delays and resistance from stakeholders accustomed to existing regulations.<sup>69</sup>

### **b. Intellectual Property Rights Protection**

The AfCFTA includes provisions on intellectual property rights (IPR) that require member states to establish and enforce robust IPR laws. Nigeria must enhance its IPR framework to comply with these standards, which can be challenging given the current gaps in enforcement and protection. Nigeria's current IPR enforcement mechanisms are weak, leading to widespread piracy and counterfeiting.

<sup>64</sup> C C Wigwe, *International Economic and Trade Laws* (Owerri: Zubic Infinity Concept 2023)280-281.

<sup>65</sup> *Ibid.*

<sup>66</sup> A Ajibola, 'Osinbajo Lists Policy Actions to Drive Industrialization in Africa' (Channels Television) accessed <https://www.channels.tv.com/2021/09/02/afcta-osinbajo-lists-policy-actions-to-drive-industrialization-in-africa> 4 April 2024.

<sup>67</sup> C C Wigwe, *International Economic and Trade Laws* (Owerri: Zubic Infinity Concept 2023)280-281.

<sup>68</sup> World Bank, 'Free Trade Deals Boost Africa's Development' June 2023 <https://www.worldbank.org/en/topic/trade/publication/free/trade-deal-boosts-africa-economic-development> accessed 4 March 2024.

<sup>69</sup> C C Wigwe, *International Economic and Trade Laws* (Owerri: Zubic Infinity Concept 2023)280-281

Strengthening these laws and their enforcement to protect patents, trademarks, and copyrights will require significant legal reforms and capacity building in regulatory agencies.<sup>70</sup>

### **c. Dispute Resolution Mechanisms**

The AfCFTA establishes a dispute resolution mechanism to handle conflicts arising from trade between member states.<sup>71</sup> Nigeria needs to develop its capacity to engage effectively in these mechanisms, which requires legal expertise and robust institutions. If a Nigerian company faces unfair trade practices from a company in another AfCFTA member state, Nigeria must be able to navigate the dispute resolution process established under the AfCFTA. This necessitates having skilled legal practitioners and institutions capable of handling such disputes, which might currently be lacking.<sup>72</sup>

### **d. Competition Law and Policy**

The AfCFTA includes provisions on competition policy aimed at preventing anti-competitive practices. Nigeria must align its competition laws with these provisions, ensuring that local businesses can compete fairly in the larger market. Nigeria's Federal Competition and Consumer Protection Act (FCCPA) needs to be effectively enforced to prevent monopolistic practices that could arise from increased market access. Developing the capacity of the Federal Competition and Consumer Protection Commission (FCCPC) to enforce these laws is crucial.<sup>73</sup>

### **e. Trade Facilitation and Customs Procedures**

Streamlining trade facilitation and customs procedures to align with AfCFTA standards is critical.<sup>74</sup> This includes adopting common customs documents, procedures, and standards to ensure seamless trade across borders. The implementation of the AfCFTA requires Nigeria to adopt and implement the Harmonized System (HS) codes for classification of goods. Ensuring that customs officials are trained, and systems are updated to handle these new requirements involves significant legal and administrative efforts.<sup>75</sup>

### **f. Regulatory and Institutional Capacity**

Building the necessary regulatory and institutional capacity to implement and monitor compliance with AfCFTA provisions is a significant challenge. This involves training officials, developing new regulatory frameworks, and ensuring effective enforcement. Nigeria needs to establish or strengthen institutions such as trade facilitation committees, standards organizations, and intellectual property offices to effectively implement AfCFTA rules. Ensuring these institutions are well-funded, staffed, and trained is essential for compliance and enforcement.<sup>76</sup>

<sup>70</sup> World Bank, 'Free Trade Deals Boost Africa's Development' June 2023 <https://www.worldbank.org/en/topic/trade/publication/free/trade-deal-boosts-africa-economic-development> accessed 4 March 2024

<sup>71</sup> A Ajibola, 'Osinbajo Lists Policy Actions to Drive Industrialization in Africa' (Channels Television) accessed <https://www.channels.tv.com/2021/09/02/afcfta-osinbajo-lists-policy-actions-to-drive-industrialization-in-africa> 4 April 2024.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

<sup>74</sup> A Ajibola, 'Osinbajo Lists Policy Actions to Drive Industrialization in Africa' (Channels Television) accessed <https://www.channels.tv.com/2021/09/02/afcfta-osinbajo-lists-policy-actions-to-drive-industrialization-in-africa> 4 April 2024.

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

#### **g. Tariff and Non-Tariff Barriers**

Eliminating tariffs and non-tariff barriers (NTBs) requires comprehensive legal and regulatory reforms. Nigeria must ensure that its tariff schedules and NTBs are aligned with AfCFTA commitments. Nigeria's Import Prohibition List, which restricts the import of certain goods to protect local industries, may need to be reviewed and adjusted in line with AfCFTA commitments to reduce tariffs and NTBs. This requires balancing the need to protect local industries with the obligations of free trade.<sup>77</sup>

#### **h. Public Awareness and Stakeholder Engagement**

Ensuring that businesses and other stakeholders are aware of and understand the legal changes and new opportunities under the AfCFTA is crucial.<sup>78</sup> This involves extensive public awareness campaigns and stakeholder consultations. Small and medium-sized enterprises (SMEs) in Nigeria need to be educated about new export opportunities and compliance requirements under the AfCFTA. This requires collaboration between government agencies, business associations, and legal experts to provide necessary training and information sessions.<sup>79</sup>

### **4.4 Legal Opportunities with African Continental Free Trade Area in Nigeria**

The African Continental Free Trade Area (AfCFTA) presents numerous legal opportunities for Nigeria, which can significantly enhance its economic landscape and trade capabilities.<sup>80</sup>

#### **a. Enhanced Market Access and Trade Liberalization**

The AfCFTA offers Nigeria access to a vast single market of over 1.3 billion people across 54 countries, creating opportunities for increased trade and exports. Nigerian manufacturers of consumer goods, such as the textile and garment industry, can expand their markets across Africa without the constraints of high tariffs. This increased market access can lead to higher production volumes, economies of scale, and enhanced competitiveness of Nigerian products.<sup>81</sup>

#### **b. Investment Promotion and Protection**

The AfCFTA includes provisions aimed at promoting and protecting investments across member states. Nigeria can attract more foreign direct investment (FDI) by providing a stable and predictable investment climate. A Nigerian tech startup looking to scale can benefit from increased investor confidence and protection under the AfCFTA framework.<sup>82</sup> This could attract more venture capital and private equity investments into Nigeria's burgeoning tech sector.<sup>83</sup>

#### **c. Harmonization of Trade and Regulatory Standards**

The harmonization of standards and regulations under the AfCFTA can reduce the costs and complexities associated with compliance, making it easier for Nigerian businesses to trade across borders.<sup>84</sup> Agribusinesses in Nigeria, such as exporters of agricultural products like cocoa and sesame

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<sup>77</sup> A Ajibola, 'Osibajo Lists Policy Actions to Drive Industrialization in Africa' (Channels Television) accessed <https://www.channels.tv.com/2021/09/02/afcfta-osibajo-lists-policy-actions-to-drive-industrialization-in-africa> 4 April 2024.

<sup>78</sup> *Ibid.*

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

<sup>82</sup> A Ajibola, 'Osibajo Lists Policy Actions to Drive Industrialization in Africa' (Channels Television) accessed <https://www.channels.tv.com/2021/09/02/afcfta-osibajo-lists-policy-actions-to-drive-industrialization-in-africa> 4 April 2024.

<sup>83</sup> *Ibid.*

<sup>84</sup> *Ibid.*



seeds, can benefit from harmonized sanitary and phytosanitary (SPS) standards. This reduces the risk of exports being rejected due to non-compliance with varying standards in different African countries.<sup>85</sup>

**d. Dispute Resolution Mechanism**

The establishment of a dispute resolution mechanism under the AfCFTA provides a legal framework for resolving trade disputes, enhancing the predictability and stability of trade relations. A Nigerian company facing a trade dispute with a partner in another AfCFTA member state can rely on the AfCFTA's dispute resolution process rather than navigating potentially biased local courts. This offers a more neutral and fairer avenue for resolving conflicts, promoting business confidence.<sup>86</sup>

**e. Intellectual Property Rights Protection**

The AfCFTA includes provisions for protecting intellectual property rights, encouraging innovation and creativity. This can spur the growth of industries reliant on IP, such as technology, entertainment, and pharmaceuticals. A Nigerian filmmaker or musician can have better protection for their works across the African continent, reducing piracy and ensuring they receive due royalties. This enhances the viability and profitability of Nigeria's creative industries.<sup>87</sup>

**f. Support for Small and Medium-sized Enterprises**

The AfCFTA provides specific support mechanisms for SMEs, including easier access to markets and financial services, enhancing their capacity to engage in cross-border trade. Nigerian SMEs in sectors like handicrafts and agro processing can leverage these support mechanisms to access new markets, obtain trade finance, and participate in regional value chains, boosting their growth and sustainability.<sup>88</sup>

**g. Development of Regional Value Chains**

The AfCFTA facilitates the creation of regional value chains, allowing Nigerian businesses to integrate more deeply into continental supply chains, enhancing value addition and industrialization. Nigerian automotive parts manufacturers can integrate into the regional automotive industry, supplying components to car manufacturers in countries like South Africa. This promotes industrial development and technological transfer.<sup>89</sup>

**h. Facilitation of Trade through Infrastructure Development**

The AfCFTA promotes the development of trade-related infrastructure, including transport, logistics, and digital infrastructure, which are critical for seamless trade. Improved infrastructure, such as better road networks and more efficient ports, can significantly reduce trade costs and delivery times for Nigerian exporters. For instance, the development of the Lekki Deep Sea Port in Lagos is a step towards enhancing Nigeria's trade infrastructure.<sup>90</sup>

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<sup>85</sup> *Ibid.*

<sup>86</sup> Lagos State Employment Trust Fund, 'The African Continental Free Trade Area and Opportunities for MSMEs in Nigeria March 9 2024 <https://lsetf.ng/content/african-continental-free-trade-area-afcfta-and-opportunities-msmes-nigeria>> accessed April 2024.

<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.*

<sup>89</sup> Lagos State Employment Trust Fund, 'The African Continental Free Trade Area and Opportunities for MSMEs in Nigeria March 9 2024 <https://lsetf.ng/content/african-continental-free-trade-area-afcfta-and-opportunities-msmes-nigeria>> accessed April 2024.

<sup>90</sup> *Ibid.*

**i. Capacity Building and Technical Assistance**

The AfCFTA includes provisions for capacity building and technical assistance to help member states implement and benefit from the agreement. Nigeria can receive technical assistance to modernize its customs procedures, improve trade facilitation, and enhance the skills of its workforce in areas like trade law and policy, thereby improving overall trade efficiency and effectiveness.<sup>91</sup>

**j. Regulatory and Legal Harmonization**

Nigeria must harmonize its national laws and regulations with AfCFTA provisions, which can be complex and time-consuming. Aligning customs procedures and tariffs with AfCFTA standards requires significant legal amendments to existing laws, such as the Customs and Excise Management Act (CEMA).<sup>92</sup> This process may face bureaucratic resistance and delays. *A.G. Lagos State v. A.G. Federation*<sup>93</sup>, where the court dealt with the alignment of state and federal laws with international obligations.

**k. Intellectual Property Rights (IPR) Enforcement**

Ensuring robust enforcement of IPR under AfCFTA standards can be challenging due to existing gaps in Nigeria's legal framework. The prevalence of counterfeit goods and piracy in Nigeria requires stronger IPR laws and enforcement mechanisms, which can be resource intensive. *Microsoft Corporation v. Franike Associates Ltd*<sup>94</sup>, where the court dealt with issues of copyright infringement, highlighting the challenges of enforcing IPR in Nigeria.<sup>95</sup>

**l. Competition Law and Anti-competitive Practices**

Addressing anti-competitive practices and aligning Nigeria's competition laws with AfCFTA standards requires significant legal reforms. Nigeria's Federal Competition and Consumer Protection Act (FCCPA) must be effectively enforced to prevent monopolistic practices that could arise from increased market access.<sup>96</sup>

**m. Trade Facilitation and Customs Procedures**

Modernizing and streamlining customs procedures to align with AfCFTA requirements involves extensive legal and administrative changes. Implementing the Harmonized System (HS) codes and simplifying customs procedures can face legal hurdles and require significant capacity building.<sup>97</sup>

**n. Loss of Tariff Revenue**

Reducing or eliminating tariffs under AfCFTA can lead to significant revenue losses for the Nigerian government, affecting public finances. Nigeria's reliance on customs duties for revenue means that

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<sup>91</sup> *Ibid.*

<sup>92</sup> Lagos State Employment Trust Fund, 'The African Continental Free Trade Area and Opportunities for MSMEs in Nigeria March 9 2024 <https://lsetf.ng/content/african-continental-free-trade-area-afcfta-and-opportunities-msmes-nigeria>> accessed April 2024.

<sup>93</sup> (2003) 12 NWLR (Pt. 833) 1

<sup>94</sup> (2011) 15 NWLR (Pt. 1270) 300.

<sup>95</sup> *Ibid.*

<sup>96</sup> *Ibid.*

<sup>97</sup> V Ejechi, 'Customs Generates N1.3 trillion Revenue in Six Months-Up by 29%' The Cable <http://www.the.cable.ng/customs-generates-n1-3trn-revenue-in-six-months-up-by-29> accessed 4 April 2024.



tariff reductions could have substantial fiscal implications, necessitating legal and economic adjustments.<sup>98</sup>

**o. Protection of Domestic Industries**

Domestic industries that are not competitive may suffer from increased competition under the AfCFTA, necessitating legal protections and support measures. Nigeria may need to implement safeguards to protect sensitive industries from a sudden influx of cheaper imports, which can be legally complex. Nigeria realizes significant revenue from import tariffs. The Nigeria Customs Service reported that it generated about N1.963 trillion between January and June 2022.<sup>99</sup>

**p. Competition with Imports**

While the opportunities and benefits that the AfCFTA offers Nigerian businesses are acknowledged, one of the disadvantages of the Agreement to Nigeria is that it renders domestic industries more vulnerable to increased competition from more competitive and efficient manufacturers in other African countries. Nigerian businesses that are not yet globally competitive may be faced with struggling to compete with cheaper imports, and this may lead to job losses and other negative impacts on indigenous businesses.<sup>100</sup>

Expectedly, these collections help shore up the overall public revenue of Nigeria and helps in infrastructure development and other expenditure items. However, under AfCFTA where tariffs historically placed on goods from other African countries will now be removed, the revenue from that source will cease to exist, and this will adversely affect the public purse.<sup>101</sup>

#### **4.5 Lessons from Kenya**

Nigeria can draw valuable lessons from Kenya's experience with the African Continental Free Trade Area (AfCFTA), both legally and economically.

**a. Commitment to Legal and Institutional Reforms**

Kenya has demonstrated the importance of enacting and implementing legal and institutional reforms to align with AfCFTA requirements. Nigeria can learn from Kenya's proactive approach to updating trade laws, regulations, and institutions to facilitate trade integration and compliance with AfCFTA provisions.<sup>102</sup>

**b. Investment in Trade Infrastructure and Logistics**

Kenya's investment in trade infrastructure, such as ports, roads, and customs facilities, has improved efficiency and reduced trade costs. Nigeria can draw lessons from Kenya's focus on developing trade-related infrastructure to enhance connectivity and facilitate cross-border trade under AfCFTA.<sup>103</sup>

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<sup>98</sup> *Ibid.*

<sup>99</sup> V Ejechi, 'Customs Generates N1.3 trillion Revenue in Six Months-Up by 29%' The Cable <http://www.the.cable.ng/customs-generates-n1-3trn-revenue-in-six-months-up-by-29> accessed 4 April 2024.

<sup>100</sup> V Ejechi, 'Customs Generates N1.3 trillion Revenue in Six Months-Up by 29%' The Cable <http://www.the.cable.ng/customs-generates-n1-3trn-revenue-in-six-months-up-by-29> accessed 4 April 2024.

<sup>101</sup> *Ibid.*

<sup>102</sup>

<sup>103</sup> C C Wigwe, *International Economic and Trade Laws* (Owerri: Zubic Infinity Concept 2023) 281-286.

**c. Promotion of Export Diversification**

Kenya has diversified its export base beyond traditional sectors like agriculture to include services and manufacturing. Nigeria can learn from Kenya's efforts to promote export diversification and value addition, leveraging AfCFTA market access to expand non-oil exports and boost economic growth.<sup>104</sup>

**d. Capacity Building and Skills Development**

Kenya has invested in capacity building and skills development initiatives to empower businesses, government officials, and stakeholders to leverage AfCFTA opportunities effectively. Nigeria can adopt similar programs to enhance trade-related skills, knowledge, and expertise needed for successful AfCFTA implementation.<sup>105</sup>

**e. Engagement with Private Sector and Stakeholders**

Kenya's engagement with the private sector, civil society, and other stakeholders has been instrumental in shaping AfCFTA policies and implementation strategies. Nigeria can learn from Kenya's collaborative approach to involve diverse stakeholders in trade policy formulation and decision-making processes.

By drawing these lessons from Kenya's experience with AfCFTA, Nigeria can enhance its readiness and effectiveness in leveraging the opportunities presented by the continental trade agreement. Implementing targeted reforms, investing in infrastructure and capacity building, and fostering inclusive stakeholder engagement will be crucial for Nigeria to maximize the benefits of AfCFTA and promote sustainable economic development.<sup>106</sup>

**4.6 Lessons from South Africa**

Nigeria can draw valuable lessons from South Africa's experience with the African Continental Free Trade Area (AfCFTA) both legally and economically.<sup>107</sup>

**a. Legal and Regulatory Alignment**

South Africa has demonstrated the importance of aligning domestic laws and regulations with AfCFTA provisions to facilitate trade integration. Nigeria can learn from South Africa's approach to enacting and implementing legal reforms that support regional trade agreements. For example, South Africa has updated its customs and trade laws to comply with AfCFTA requirements, creating a conducive legal environment for cross-border trade.<sup>108</sup>

**b. Investment in Infrastructure**

South Africa's investment in trade-related infrastructure, including ports, transportation networks, and customs facilities, has improved trade efficiency and connectivity within the region. Nigeria can draw lessons from South Africa's emphasis on infrastructure development to enhance trade facilitation under

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<sup>104</sup> *Ibid.*

<sup>105</sup> *Ibid.*

<sup>106</sup> C C Wigwe, *International Economic and Trade Laws* (Owerri: Zubic Infinity Concept 2023) 281-286.

<sup>107</sup> *Ibid.*

<sup>108</sup> *Ibid.*

AfCFTA. For instance, upgrading transportation corridors and border crossings can reduce transit times and transaction costs for Nigerian exporters and importers.<sup>109</sup>

#### **c. Promotion of Value Addition and Manufacturing**

South Africa has developed a strong manufacturing sector and promotes value addition in exports, contributing to economic diversification and competitiveness. Nigeria can emulate South Africa's focus on industrialization and value-added production to enhance its export capacity within AfCFTA. For example, promoting local manufacturing of goods like automobiles, machinery, and processed foods can create value chains and boost export competitiveness.<sup>110</sup>

#### **d. Skills Development and Capacity Building**

South Africa has invested in skills development programs to equip businesses and stakeholders with the necessary knowledge and expertise for effective trade engagement. Nigeria can learn from South Africa's emphasis on capacity building in trade-related areas such as customs procedures, trade policy analysis, and export marketing. Enhancing skills and capabilities can empower Nigerian businesses to leverage AfCFTA opportunities and navigate regional trade dynamics.<sup>111</sup>

#### **e. Partnerships and Collaboration**

South Africa actively engages in partnerships and collaboration with regional counterparts, private sector stakeholders, and international organizations to promote trade integration and economic development. Nigeria can benefit from South Africa's experience by fostering strategic partnerships and alliances to advance AfCFTA objectives. For instance, establishing joint initiatives with neighbouring countries and regional bodies can enhance trade cooperation and harmonization of trade policies within the AfCFTA framework.<sup>112</sup>

By adopting these lessons from South Africa's experience, Nigeria can strengthen its readiness and capacity to harness the benefits of AfCFTA effectively. Implementing targeted legal reforms, investing in critical infrastructure, promoting value addition in manufacturing, enhancing skills development, and fostering strategic partnerships will be essential for Nigeria to maximize the economic opportunities presented by the continental free trade agreement.<sup>113</sup>

### **4.7 Application of the Lessons from Kenya and South Africa in Nigeria**

Nigeria can prioritize aligning its domestic laws and regulations with AfCFTA provisions to create a conducive legal environment for regional trade. Nigeria can update its customs laws, trade regulations, and investment policies to comply with AfCFTA requirements, like the legal reforms undertaken by Kenya and South Africa.<sup>114</sup>

Nigeria can invest in critical trade-related infrastructure such as ports, roads, and customs facilities to enhance trade facilitation and connectivity within the region. Improving transportation corridors linking

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<sup>109</sup> *Ibid.*

<sup>110</sup> C C Wigwe, *International Economic and Trade Laws* (Owerri: Zubic Infinity Concept 2023) 281-286

<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.*

<sup>113</sup> C C Wigwe, *International Economic and Trade Laws* (Owerri: Zubic Infinity Concept 2023) 281-286

<sup>114</sup> *Ibid.*

Nigeria to neighbouring countries and upgrading border crossings can reduce transit times and transaction costs for Nigerian businesses, like infrastructure investments made by South Africa.<sup>115</sup> Nigeria can prioritize industrialization and value-added production to boost export capacity and competitiveness under AfCFTA. Encouraging local manufacturing of goods like processed foods, textiles, and electronics can create value chains and enhance Nigeria's export capabilities, following the manufacturing strategies adopted by South Africa.<sup>116</sup> Nigeria can invest in skills development programs to equip businesses and stakeholders with the necessary expertise for effective trade engagement. Providing training on trade policy analysis, customs procedures, and export marketing can empower Nigerian businesses to navigate regional trade dynamics, similar to capacity-building efforts in Kenya and South Africa.<sup>117</sup>

Furthermore, Nigeria can foster partnerships and collaboration with neighbouring countries, regional bodies, and private sector stakeholders to advance AfCFTA objectives. Establishing joint initiatives for trade promotion, investment facilitation, and regulatory harmonization can strengthen Nigeria's trade cooperation within the AfCFTA framework, following the partnership approaches adopted by Kenya and South Africa.<sup>118</sup>

By applying these lessons effectively, Nigeria can enhance its readiness and capacity to harness the benefits of AfCFTA, promote economic growth, and contribute to regional trade integration. Implementing targeted strategies in legal reforms, infrastructure development, industrialization, skills development, and collaboration will be essential for Nigeria to maximize the potential of the continental free trade agreement and drive sustainable economic development across Africa.

#### **4.8 Prospects for the African Continental Free Trade Area Agreement in Nigeria**

African Continental Free Trade Area (AfCFTA) holds significant prospects for Nigeria, offering numerous opportunities to boost economic growth, enhance regional trade integration, and promote industrial development.<sup>119</sup>

##### **a. Market Access and Expansion**

AfCFTA provides Nigerian businesses with access to a vast market of over 1.3 billion people across Africa, creating opportunities for export growth and market expansion. For instance, Nigerian manufacturers of goods like textiles, processed foods, and consumer electronics can tap into new markets in other African countries, benefiting from reduced trade barriers and tariffs.<sup>120</sup>

##### **b. Export Diversification and Value Addition**

AfCFTA encourages Nigeria to diversify its export base beyond oil and gas, promoting value-added manufacturing and agricultural products. Nigerian agricultural producers can increase exports of

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<sup>115</sup> *Ibid.*

<sup>116</sup> I Kemi, 'The AfCFTA: Trade and Investments Benefit for Nigeria' [2021] (8) (2) *Journal of African Trade* 49-61.

<sup>117</sup> *Ibid.*

<sup>118</sup> *Ibid.*

<sup>119</sup> I Kemi, 'The AfCFTA: Trade and Investments Benefit for Nigeria' [2021] (8) (2) *Journal of African Trade* 49-61.

<sup>120</sup>

products like cocoa, sesame seeds, and cashew nuts to neighbouring African countries, leveraging preferential trade terms under AfCFTA.

#### **c. Industrialization and Investment Opportunities**

AfCFTA fosters industrial growth by attracting foreign direct investment (FDI) and promoting regional value chains and manufacturing hubs. For instance, Nigeria can attract investments in sectors such as automotive manufacturing, pharmaceuticals, and renewable energy to serve regional markets within the AfCFTA framework.<sup>121</sup>

#### **d. Job Creation and Economic Development**

AfCFTA has the potential to stimulate job creation and skills development across various sectors of the Nigerian economy. For instance, increased trade activities under AfCFTA can create employment opportunities in manufacturing, logistics, services, and agriculture, contributing to poverty reduction and inclusive economic growth.<sup>122</sup>

#### **e. Services Sector Growth and Digital Economy**

AfCFTA promotes liberalization of trade in services, offering opportunities for Nigeria's service providers in areas like finance, telecommunications, and technology. For instance, Nigerian fintech companies can expand operations across Africa, offering innovative financial services and digital solutions to a broader customer base under AfCFTA.<sup>123</sup>

Overall, the prospects for AfCFTA in Nigeria are promising, provided that the country leverages its strengths, addresses challenges, and implements supportive policies and reforms. By harnessing the potential of AfCFTA, Nigeria can contribute to the economic transformation of Africa, promote inclusive development, and position itself as a key player in regional trade integration. Effective implementation of AfCFTA initiatives will be crucial for Nigeria to maximize the benefits of the continental free trade agreement and drive sustainable economic growth across the continent.<sup>124</sup>

### **5. Conclusion**

The African Continental Free Trade Area (AfCFTA) presents both significant opportunities and legal challenges for Nigeria. The agreement offers Nigeria access to a larger market of over 1.3 billion people across Africa, fostering market expansion, export diversification, and industrial growth. However, the effective implementation of AfCFTA requires addressing infrastructure deficits, regulatory barriers, and capacity limitations to fully leverage the benefits of regional trade integration. Nigeria must prioritize legal and regulatory reforms, invest in critical trade-related infrastructure, promote export diversification and value-added manufacturing, and enhance skills development and capacity building to harness the potential of AfCFTA effectively. By overcoming these challenges and capitalizing on the opportunities presented by AfCFTA, Nigeria can drive sustainable economic growth, create employment opportunities, and contribute to regional trade integration and development in Africa.

<sup>121</sup> I Kemi, 'The AfCFTA: Trade and Investments Benefit for Nigeria' [2021] (8) (2) *Journal of African Trade* 49-61.

<sup>122</sup> I Kemi, 'The AfCFTA: Trade and Investments Benefit for Nigeria' [2021] (8) (2) *Journal of African Trade* 49-61.

<sup>123</sup> I Kemi, 'The AfCFTA: Trade and Investments Benefit for Nigeria' [2021] (8) (2) *Journal of African Trade* 49-61.

<sup>124</sup> *Ibid.*

## **6.0 Recommendations**

To address the opportunities and legal challenges associated with the African Continental Free Trade Area (AfCFTA) in Nigeria, here are five recommendations:

### **1. Harmonize Trade Laws and Regulations**

Nigeria should prioritize harmonizing its trade laws, regulations, and standards with AfCFTA provisions to ensure consistency and facilitate seamless trade across member countries. This includes aligning product standards, customs procedures, investment regulations, and intellectual property rights (IPR) protection mechanisms.

### **2. Invest in Trade-Related Infrastructure**

Nigeria needs to invest in critical trade-related infrastructure, such as ports, roads, and customs facilities, to enhance trade facilitation and connectivity within the region. Improving transportation networks and border crossings will reduce transit times and transaction costs for businesses engaged in cross-border trade.

### **3. Enhance Capacity Building and Skills Development**

Implement comprehensive capacity-building programs to equip government officials, legal practitioners, trade professionals, and businesses with the necessary skills and knowledge to navigate AfCFTA regulations effectively. Training initiatives should focus on trade policy analysis, customs procedures, IPR protection, and dispute resolution mechanisms.

### **4. Promote Export Diversification and Value Addition**

Encourage export diversification beyond oil and gas by promoting value-added manufacturing and agricultural products. Nigeria should support local industries to enhance competitiveness and take advantage of preferential trade terms under AfCFTA. This includes fostering industrial growth, supporting small and medium-sized enterprises (SMEs), and developing regional value chains.

### **5. Strengthen Institutional Capacity and Dispute Resolution Mechanisms**

Strengthen legal institutions and mechanisms responsible for trade governance and dispute resolution. Nigeria should actively participate in AfCFTA's dispute settlement mechanisms and support the establishment of effective trade dispute resolution processes. This will enhance confidence in the trade agreement and ensure fair trade practices among member countries.

By implementing these recommendations, Nigeria can harness the opportunities presented by AfCFTA while effectively addressing the legal challenges associated with regional trade integration. This proactive approach will contribute to sustainable economic growth, job creation, and inclusive development in Nigeria and across the African continent.