REPORT

TRADE TAXATION AND CUSTOMS POLICY STUDY

PREPARED

BY

Marketlink
Consults

Table of Contents

LIST OF FIGURES

LIST OF TABLES

LIST OF ACRONYMS

Acronym	**Definition**
ACP	Africa, Caribbean and the Pacific
AfDB	Africa Development Bank
ADTA	Avoidance of Double Taxation Agreement
AEC	Africa Economic Community
AfCFTA	Africa Continental Free Trade Agreement
AGOA	Africa Growth Opportunity Agreement
AMCON	Assets Management Company of Nigeria
ATAF	African Tax Administration Forum
BEPS	Base Erosion and Profit Shifting
BOF	Budget Office of the Federation
BTA	Bilateral Trade Agreements
BTS	Benchmark Tax System
CBA	Cost Benefit Analysis
CBN	Central Bank of Nigeria
CEMA	Customs and Excise Management Act
CEMAC	Central African Economic and Monetary Community
CET	Common External Tariff
CFA	CFA Franc
CGE	Computable General Equilibrium
CGT	Capital Gains Tax
CGTA	*Capital Gains Tax Act*
CISS	Comprehensive Import Supervision Scheme
CIT	Company Income Tax
CITA	Company Income Tax Act
CIU	currently in use
CNPE	National Economic Policy Committees
COMESA	Common Market for Eastern and Southern Africa
CPA	Cotonu Partnership Agreement

Acronym	**Definition**
CPSS	Continental Payments and Settlement System
CSR	Corporate Social Responsibility
CTP	Common Trade Policy
DDA	Doha Development Agenda
DOIBPSCA	Deep Offshore and Inland Basin Production Sharing Contracts Act
EAC	East African Economic Community
EBA	everything but arms
ECC	Export Credit Certificate
ECOWAS	Economic Community of West African States
EEC	European Economic Community
EEG	Export Expansion Grant
ELTS	ECOWAS Trade Liberalization Scheme
EMT	Electronic Money Transfer
EPA	Economic Partnership Agreement
EPSS	ECOWAS Payments and Settlement System
EPZ	Export Processing Zones
ERGP	Economic Recovery and Growth Plan
ESCAP	United Nations Economic and Social Commission for Asia and the Pacific (ESCAP),
ETLS	ECOWAS Trade Liberalization Scheme (ETLS)
FDI	Foreign Direct Investment
FERDI	Foundation for International Development Study and Research
FGN	Federal Government of Nigeria
FIRS	Federal Inland Revenue Service
FMFBNP	Federal Ministry of Finance, Budget and National Planning
FMITI	Federal Ministry of Industry, Trade and Investment
FSP	Fiscal Strategy Paper
FTA	Free Trade Agreement
FTZ	Free Trade Zone
GATT	General Agreement of Tariff and Trade

Acronym	**Definition**
GDP	Gross Domestic Product
GFI	Global Financial Integrity
GHG	Greenhouse gases
GNP	Gross National Product
GSP	Generalized Special Preferences
GSTP	Global System of Trade Preferences among Developing Countries
GTAP	Global Trade Analysis Project
GTED	Global Tax Expenditures Database
GTI	Guided Trade Initiative
HLP	High-Level Panel
IDITRA	Industrial Development Income Tax Relief
IIA	International Investment Agreement
IMF	International Monetary Fund
IPF	Investment Project Financing
ISDS	Investor State Dispute Settlement
JBP	Joint Border Posts
JIT	Just-In-Time
KNUST	Kwame Nkrumah University of Science and Technology
KPI	Key Performance Indicator
LDC	Least developed countries
LFN	Law of Federal Republic of Nigeria
LNG	Liquefied Natural Gas
LPG	Liquefied Petroleum Gas
MDA	Ministry Department and Agencies
MFA	Ministry of Foreign Affairs
MFN	Most Favored Nation
MPR	Monetary Policy Rate
MTEF	Medium-Term Expenditure Framework
NAC	National Automotive Council (NAC) levy,
NAFTA	North American Free Trade Agreement

Acronym	**Definition**
NAMA	Nigerian Airspace Management Agency
NANTS	National Association of Nigerian Traders
NBS	Nigeria Bureau of Statistics
NCC	National Coordination Committees
NCS	Nigeria Customs Service
NDFAR&VAT	Net Distributable Federation Account Revenue and VAT (NDFAR) and VAT)
NEPZA	Nigeria Export Processing Zones Authority
NGO	Non-Governmental Organizations
NIPC	Nigerian Investment Promotion Commission
NIRP	Nigeria Industrial Revolution Plan
NITDEF	National Information Technology Development Fund
NNR	Net Non-oil Revenue
NPF	Nigeria Police Force
NPU	Not planning to use
NSIA	Nigeria Sovereign Investment Authority
NTB	Non Trade Barrier
NTTP	National Tax Transition Program
ODC	Other Duties and Charges
OECD	Organization for Economic Cooperation and Development (OECD)
OGEFZA	Oil and Gas Export Free Trade Zone Authority
PAPSS	Pan African Payment System
PAYE	Pay As You Earn
PIA	Petroleum Investment Allowance
PIDF	Presidential Infrastructure Development Fund
PIT	Personal Income Tax
PITA	Personal Income Tax Act
PPD	Public–Private Dialogue (PPD)
PPT	Petroleum Profit Tax
PPTA	Petroleum Profit Tax Act
PSI	Pioneer Services Initiative

Acronym	**Definition**
REC	Regional Economic Community
RITCS	Refurbishment Investment Tax Credit Scheme
ROI	Return on Investment
RPSS	Regional Payments And Settlement System
RTA	Regional Trade Agreement
SADC	Southern African Development Community
SDG	Sustainable Development Goal
SDT	Special and Differential Treatment
SPS	Sanitary and phytosanitary
SRGI	Strategic Revenue Growth Initiative
SSC	supply curve
SUT	Supply and Use Tables
TBT	Technical Barriers to Trade
TFA	Trade Facilitation Agreement
TIFA	Trade and Investment Framework Agreement
TNC	transnational corporations
TPD	Tax Policy Division
TRS	Time Release Study
TSD	Technical Services Department
UEMOA	Union Economique et Monétaire Ouest Africaine
UNCTAD	United Nations Conference on Trade and Development
UNECA	United Nations Economic Commission for Africa
UNIDO	United Nations Industrial Development Organization
USD	US Dollar
VAT	Value Added Tax
VATA	Value Added Tax Act
WAEMU	West African Economic and Monetary Union
WATAF	West African Tax Administration Forum
WCO	World Customs Organization
WHT	With Holding Tax
WTO	World Trade Organization

EXECUTIVE SUMMARY

Trade liberalization is part of the regional and global trend toward economic integration; and many countries, including Nigeria, have therefore, dismantled trade barriers to open their economies to regional and international competition. This trend toward liberalization is expected to lead to economic efficiency, international competitiveness, and an expansion of trade. Over the years Nigeria's fiscal policy has been characterized by the existence of numerous tax and customs incentives. Unfortunately, the expected benefits of these incentives are not translating into improved revenue collections, let alone better performance of those companies who are their recipients. There are companies that, after having enjoyed tax incentives for years, ended up closing down, even before the country reaped any positive benefits from such incentives.

1. Nigeria's Involvement in Economic Integration

Therefore, there is a need to: (i) explore the nature of customs duty and tax incentives available in the main economic sectors in Nigeria; and (ii) evaluate the effects of customs duty and tax incentives (rebates and preferential tariff rates) over the years; (iii) analyze the relationship between imports' values and customs duty collections over the years particularly since the beginning of the implementation of ***Customs Union*** phase of the Economic Community of West African States (ECOWAS), with a Common External Tariff (CET) that commenced in January 2015; and to project into what the likely effect of additional continental economic integration (that is, the African Continental Free Trade Area-AfCFTA) would have on the national revenue mobilization of Nigerian economy.

The justification for these needs is essentially to emerge with appropriate tax and customs policy reforms in line with Nigeria's commitments to various economic integration programmes as well as with her commitment at the multilateral level under the World Trade Organization (WTO). Under the current realities, Nigeria appears to be in a ***policy dilemma*** with regards to how to use the benefits of the various economic integrations she is part and parcel without them having substantial opportunity cost of revenue forgone. Yet in the interest of promoting economic growth, raising sufficient revenue to finance public infrastructure is a primary concern of tax policy, but the government's ability to collect customs duties and taxes hinges on the earnings of firms and individuals; as well as effective and efficient policy reforms on taxes and customs duties. Such considerations of opportunity cost were part of the basis for why the country (a) was not interested in the Economic Partnership Agreement (EPA) between her and the European Union (EU); (c) delayed her ratification of AfCFTA till 5th

December 2020, after the mandatory 22 African Union (AU) had completed their ratification on the 30th May 2018; and (c) refused to sign the ECOWAS Common Trade Policy since 2018.

Three prominent questions that the country was interested in resolving on these matters, among others are: (a) What are the general customs duty and trade tax incentives applicable to economic integration programmes to which Nigeria belongs? (b) What are the effects of customs duty incentives and trade tax on the national revenue mobilization of Nigeria? (c) What is the relationship between customs duty and other trade taxes like Value Added Tax (VAT) on Nigeria's imports? and (d) What is the relationship between customs duty and import values in the various sectors of the economy?

Over the years' tax incentives essentially constitute a set of fiscal policy tools that the Nigeria government uses to achieve desired economic and social policy outcomes. However, these incentives had negative consequences on public revenues. This is because, while imposing taxes increases public revenues, granting tax incentives involves calibrating the design and scope of the tax system to favor certain groups by partially waiving the collection of taxes otherwise due to encouraging the undertaking of certain behaviors, decisions, or activities.

In the same manner, the removal of customs duties under the ECOWAS and incoming AfCFTA without commensurate trade creation effect on the economy equally erodes the national revenue as well. The effect of tariff reductions on revenues depends on the levels and coverage of existing tariffs, and on the extent to which they are reduced. The precise impact on revenues is difficult to predict because it depends on complex economic responses arising from such reductions or removal. If import values are unchanged, the immediate effect of a reduction in tariff rates is to lower revenues (if trade taxes are included in the base of domestic taxes on imports, then this reduction in trade taxes is accompanied by a reduction in excise and VAT collections levied on imports, though possibly with some offsetting revenue effects elsewhere in the economy). This potential loss of revenue is often at the root of opposition to reducing tariffs.

Trade liberalization under economic integrations like ECOWAS and AfCFTA would lower tariffs between Member States but not for countries outside the arrangement. The trade-creating and trade-diverting implications of such agreements are well known and would have negative implications, at least in the short to medium term on revenue considerations. The conditions for minimizing the likelihood of trade diversion are that the Member States have extensive trade links among themselves. The concerns about revenue losses from trade liberalization may make trade-creating trade arrangements less likely and trade-diverting arrangements more likely. This is why Nigeria has not benefited, as expected, from ECOWAS economic integration since 1975, apart from some discipline having been imposed on the underlying regional trade liberalization strategy on all Member States.

2. Federal Government Partner with World Bank of Trade Taxation and Customs Study Policy

The above is why the Federal Government of Nigeria (FGN) agreed with the World Bank on a multi-year (2018-2022) project to support the FGN through the "**Trade Taxation and Customs Policy Study"** to strengthen public finance management under the increasing regional and multilateral trading and investment arrangements that the economy is currently exposed to. In addition, the project is expected to support key Ministries, Departments, and Agencies (MDAs) of the Federal Government to undertake critical reforms in their various assignment in line with global best practices and take note of the circumstances that are peculiar to the country.

The outcome of the project is expected to address the following three main governance challenges and bottlenecks hampering the effectiveness of the Nigeria government in promoting growth and development by attending to: (i) poor oversight of revenue accruing to the Federation Account; (ii) weak controls, transparency and accountability in the use of public funds by the Federal Government; and (iii) inadequate information and inconsistencies in Nigeria's fiscal and economic statistics. To this end, the four components of the project are: (a) strengthening revenue management; (b) strengthening controls, transparency, and accountability in the use of public funds; (c) strengthening economic and fiscal statistics; and (d) ensuring implementation support.

Therefore, the objectives of the study as contained in the Terms of Reference (ToR) are as follows:

- ❖ Conduct stocktaking and cost-benefit analysis of tariff incentives (exemptions, deductions, credits);
- ❖ Carry out custom duties and tax with respect to their regional harmonization incidence analysis; and
- ❖ Review of customs tariffs and tax from the perspective of regional trade integration in line with emerging realities.

Marketlink Consults Ltd was awarded the assignment based on the track records of the company, particularly the Chief Executive Officer (Professor Jonathan Aremu), who has been involved in various issues on national, regional, continental, and multilateral trade and investment issues affecting the country for about three decades. The consultant, (Marketlink Consults) engaged its experts on tax and tariffs in carrying out the assignment. The various MDAs were involved in the supply of information in the course of the Study. The private sector stakeholders were equally contacted on the assignment and participated in the workshop in the course of the assignment. The consultant utilized the outcome of the engagement of the stakeholders' input from the development of the National Strategy of AfCFTA on Nigeria to enrich the findings of the Study.

3. Sections of the Study

Apart from the introduction, the outcome of the Study is divided into an additional ten (10) sections, as follows:

- macroeconomic performance of the Nigerian economy with respect to key economic variables and the performance of the fiscal management:
- the position under the current multilateral and regional trade agreements;
- the conceptual issues in economic integration and their implications on tax and customs;
- stakeholder perception on economic integration, using AFCFTA National Strategy in Nigeria;
- stocktaking and cost-benefit analysis of tax and customs in Nigeria;
- regional harmonization incidences of tax and customs in Nigeria;
- review of tax and customs from the emerging regional perspective Nigeria is involved with;
- implementation of the trade taxation and customs policy study in Nigeria;
- recommendations; and
- conclusions

4. Recommendations and Conclusions of the Report

The report of the study revealed substantial gaps in basic understanding of trade issues among the MDAs. It equally discovered a lack of coordination among the MDAs and involvement in trade matters. Hence there are substantial overlaps in the performance of the different functions of these institutions. It therefore emerged with these main recommendations addressed under the following sub-headings: (a) Improving Nigeria's position in ECOWAS and AfCFTA economic integrations; (b) Improving the Nigeria Customs Service operational activities in economic integrations and at multilateral levels; (c) Improving the Nigeria trade tax in ECOWAS and AfCFTA economic integrations; and (iv) Improving Nigeria’s revenue position in ECOWAS and AfCFTA economic integrations.

The Report identified the difference between Nigeria and the ECOWAS agreement which should not be expected under the customs union phase of economic integration. This was the basis for the recent Supplementary Act as well as Directives of ECOWAS that was released in July 2023.

In conclusion, the Report recognized the expansion in the role of the Nigerian government over the years and its implications for the effective functioning and organization of the FMof. **First,** there was the sheer scale of the increase in the size of public expenditure and taxation which required both an expansion of the role (and size) of budget and accounting/treasury offices as well as the development of new techniques of policy analysis and the exercise of stronger control over public spending and off-budget transactions such as the newly established social security funds. **Second**, there was a large increase in the breadth and volume of state activities in which the FMof is being involved, making the government re-assign a coordinating role to the ministry under the present administration. The capacity of the FMof to fulfill its traditional functions along with coordination of all the MDAs demands technical mastery of all economic and financial issues, as well as the detailed operations and spending programs of all of them.

The Report noted that there are some inconsistencies between what the FMof finally approved apart from what customs implemented. Particularly, it was observed that customs overshoot approval. This is not expected for budgetary prudence. We expect this will be resolved with the implementation of a Single Window, networked to all the relevant MDAs. As a coordinating Ministry, FMof would be responsible for performing a wide range of fiscal and financial functions, some of which were hitherto being carried out by other governmental agencies in four categories of functions such as (i) policy, (ii) regulatory, (iii) transactional, and (iv) combination of the above three. These are spelled out clearly under the taxonomy of FMoF, under seven principles.

The Report equally discovered the fragmentation of fiscal policy functions across the MDAs rather than retaining or consolidating them. Many of these MDAs lack the appropriate technical capacity for performance as well as inadequate training opportunities to upgrade their competencies. In particular, there is a dearth of capacity in areas such as (i) macro-fiscal forecasting, (ii) fiscal risk analysis, (iii) debt strategy, (iv) policy related to taxes and other government revenues, (v) local government finance, (vi) the management of state enterprises, (vii) economic integration, (viii) tax and illicit financing (like, transfer pricing, trade mis-invoicing and corruption-related activities of transnational corporations-TNCs) or (ix) public-private partnerships.

Lastly, FMof should be mandated to produce various outputs such as economic and fiscal forecasts, budget analysis and projections, or financial statements that are critical in monitoring Nigeria's financial performance. These outputs should be based on a large quantity of data, produced by the Ministry itself as well as by the National Bureau of Statistics (NBS) or by other public institutions or private groups. For this reason, reorganizing departments within the Ministry may be counterproductive if weaknesses originate from inadequate processes or weak capabilities and inadequate statistics for planning. Performance improvements may require an overhaul of these business processes and organizational culture, and not only a change in the organizational chart. Therefore, restructuring the Ministry is not an isolated exercise, but should be conducted in parallel to other reforms in financial management, and the introduction of new ICT systems and data management with a single-window platform for effective and efficient monitoring.

INTRODUCTION

Basis for the Trade Taxation and Customs Study

1. Background

The Federal Government of Nigeria (FGN) agreed with the World Bank on a multi-year (2018-2022) project to support the FGN to strengthen public finance management. The Project is designed as an Investment Project Financing (IPF) targeted at supporting key Ministries, Departments and Agencies (MDAs) to undertake critical reforms to public financial management in Nigeria. The outcome of the project is expected to address the following three main governance challenges and bottlenecks hampering the effectiveness of the Nigeria government in promoting growth and development by attending to: (i) poor oversight of revenue accruing to the Federation Account; (ii) weak controls, transparency and accountability in the use of public funds by the Federal Government; and (iii) inadequate information and inconsistencies in the Nigeria's fiscal and economic statistics. Therefore, the four components of the project are: (a) strengthening revenue management; (b) strengthening controls, transparency and accountability in the use of public funds; (c) strengthening economic and fiscal statistics; and (d) ensuring implementation support.

In strengthening the revenue management component, the Technical Services Department (TSD) of the Federal Ministry of Finance, Budget and National Planning (FMoFBNP); as a beneficiary of the support is expected to implement activities as well as strengthen the capacity of the FMoFBNP in revenue forecasting and analysis. The TSD, through the Tax Policy Division (TPD) is responsible for formulating tax policies that promote the development of Nigeria in a tax regime environment that is competitive, equitable, fiscally sound and resilient. As part of the capacity building initiatives, the TSD intends to use part of the World Bank supported credit in carrying out several studies aimed at strengthening revenue analysis and forecasting, including interagency coordination and consistency of fiscal information. This provides the basis for the "Trade Taxation and Customs Policy Study.

Among the colonial legacy, that is still in existence today are the Nigeria Tax System, and the Customs Service. The Nigeria Tax has been based on British tax laws, structured as a tool for revenue generation. Taxation in Nigeria is enforced by the three (3) tiers of government, i.e., federal, state, and local government with each having its sphere clearly spelt out in different laws of the country. Similar to Nigeria Tax System, is the Nigeria Customs Service (NCS); which is an upshoot of the Customs and Excise Management Act (CEMA), No. 55 of 1958 to: (i) collect of revenue from activities involving

Import/Excise Duties, and remitting the funds to the Federal Government of Nigeria; (ii) monitor and fighting against all forms of smuggling activities in the country; (iii) alert the nation on imports that pose security threats to the nation; (iv) generate import/Excise Duty statistics needed for planning and for proposing new national budgets; license, registration and documentation of Customs Agents; and (v) work together with other security parastatals in all approved ports and border station.

2. Justification of the Study

With the various issues in multilateral and regional trading arrangements confronting the country, modernization of Nigeria's trade tax and customs delivery systems and administration is inevitable. The major role of customs as an organization is to facilitate trade, in addition to ensuring the payments of import and excise duties

(a) Nigeria's Tax System

Public sector economics revealed that the ultimate aim of government should be to develop a tax system that will not only generate revenue, but also stimulate socio-economic development. That is government at all levels should develop tax systems that encourage trade and investment, as well as position the private sector as an effective engine for economic growth and prosperity. The Nigeria Tax System has not been able to play such significant role in the development towards trade and investment. For the economy to grow, the fiscal policy which includes taxation must be trade and investment friendly. It is therefore necessary; for all tiers of government to see it as a primary responsibility to create a conducive atmosphere for economic activities from which revenue is realized in the form of taxes, charges, fees etc. Thus, government must begin to change its perception of taxation as principally a revenue generating tool, to a veritable instrument for socio-economic development.

Among the objectives of taxation are: (i) revenue generation in a manner that will not adversely affect the development of trade and investment; (ii) redistribution of wealth; (iii) discourage certain behaviours like smoking or alcohol consumption; (iv) promote fiscal responsibility and accountability; (v) facilitate economic growth and development; (vi) address inequalities in income distribution, provide economic stability[(vii) pursue fairness and equity; (viii) correct market failures or imperfections and provide the Government with stable resources; and (ix) regulate the economy. However, over the years government at all levels in Nigeria seem to concentrate on using taxation as a revenue generation tool without considering other purpose of taxation.

(b) Customs Services Policy

The Nigeria Customs Service (NCS) is an independent customs service under the supervisory oversight of the Nigerian Ministry of Finance, responsible for the collection of customs revenue, facilitation of both national and international trade, anti-smuggling and security activities. Some challenges currently bedevil the customs service in Nigeria, which if not tackled, could retard the organizational growth of the service and prevent it from reaching the desired goals within economic integration. These challenges are essentially domestic regulatory factors, which include resistance to change, the lack of a national legal framework to back customs modernization, transparency issues, corruption, poor cooperation between customs and other MDAs, and low private sector involvement, among others. All these call for:

Limited speed to change: Change is a permanent feature of any growth-oriented system, which requires speed and sustainable actions Although the NCS is undertaking several reforms at the moment, it still needs continuous change with speed to catch up with global best practices, including the demand by the trading community for expedite cargo clearance. Particularly, the NCS is required to step up the speed of reforms in the implementation of the World Trade Organization (WTO) Trade Facilitation (TFA).

Dearth of national legal frameworks to back customs modernization: Nigeria's laws and regulations on customs administration are relatively out-of-date, confusing, and sometimes contradictory. Consequently, it is becoming difficult to establish clearly the regulatory basis for their modernization efforts.

Limited transparency: There seems to be limited transparency in the operations of the NCS as new procedures and related laws and regulations are not efficiently published as required under the WTO TFA (Article 1). Furthermore, transparency is required in the interpretation of tariff classifications, including dispute settlement resolution on disputes arising from tariff classification during cargo clearance. Nigeria's customs administration operations currently as many of the relevant laws and regulations are not easily accessible or overlaps into other governmental agencies.

Dealing with unprofessional conduct in customs: Some nationals and international agencies have rated NCS as not professional enough. While instilling in all customs officials a culture of integrity through various programmes (e.g., Ethics Codes) is a starting point; enhancing existing internal systems of control and enabling third party audits; restricting the freedom of action of officers and limiting their contact with economic operators through automated procedures would minimize unprofessional practices.

Limited cooperation among government agencies: For customs modernization to have the desired impact, government agencies involved in border management must step in and play their parts as well. It has been seen that the delays in customs clearance procedures is largely due to limited cooperation among border agencies as required under TFA (Article 8). Delay in the establishment of “Single Window” could be as a result of the lack of inter-agency cooperation. The resultant interconnectivity of systems, practices and approaches which serve the interests of government and business.

Failure to fully involve the business sector: There are many reasons that can prevent a full and open dialogue between customs and business in matters that concern them. This specific relationship is “mutually antagonistic because compliance with customs laws and procedures is often involuntary.” In this regard, the application of the WTO TFA (Article 2.2) on ‘Consultations’ as a trade facilitation measure is relevant. Such consultations will enhance voluntary compliance as the economic operators are properly updated on potential new procedures that would affect the trading community and their input are integrated in new provisions. The resultant voluntary compliance will increase revenue and further facilitate trade and boost economy through enhanced investment.

Absence of contingency plans: As opposed to the current situation, a good customs administration is expected to have a contingency plan just in case some implementation challenges arise. Such a plan is indispensable in Nigeria considering the nature of the process which most of the time may have some setbacks. The plan would also enable prompt action in case of system failure. A contingency plan in the Policy will resolve such problems.

The Great Disconnect: In Nigeria, the lack of coherence in the actions of customs officials currently do pose challenges. For instance, instead of facilitating trade NCS sees itself as a revenue collecting arm of the government. This points to the disconnect between the strategic and the operational levels in customs activities. The NCS administration actions should be synchronized and consistent with other macroeconomic policy objectives of the country.

The targets of this Study are to (a) look at the effect of the Nigeria tax system on trade particularly with reference to various tax incentives; as well as (b) into the general principles of customs modernization as reflected in the various programs of the World Customs Organization (WCO), and realign them with NCS. The study will also examine some of the challenges confronted by the Nigerian tax authorities as well as NCS in her efforts to modernize the country’s customs operations to answer to the demands of not only the WCO, but also to the various economic integration arrangements at regional and continental levels. With the implementation of findings from this study, t both the tax authorities and the NCS would prepare themselves adequately ready for a successful modernization under the emerging reality against the projected change and make informed recommendations and develop adequate contingency plans as well towards

Nigeria trade and investment activities. Such modernization is indispensable to enable tax and NCS administrations to meet both their national, regional (ECOWAS), continental (African Union) and international WTO obligations.

3. Overall Objective of the Trade Taxation and Custom Policy Study

The broad or general objective of this assignment is to carry out a study and provide appropriate taxation as well as customs advisory services to TSD and Tax agencies in Nigeria.

4. Specific Objectives

Specifically, the objectives of the study as contain in the Terms of Reference (ToR) are as follows:

i. Conducting Stocktaking and Cost-benefit Analysis of Tariff Incentives

Over the years, Nigeria has used tariff incentives to implement her import substitution strategy, in addition to using it as source of revenue generation. Such incentives are either in the form of an exemption from taxation or a reduction in the tariff rates for imported and exported goods. This study would:

- collect all import and export tariff incentives in effect during five fiscal years 1st January 2017 to 31st December 2021. Specifically, the study took stock of all existing customs tariffs and export duties incentives in Nigeria, and carried out a cost-benefit analysis of such incentives, in addition to estimating the opportunity cost of such incentive on the economy;
- quantified or estimated their opportunity cost in terms of revenues and funds forgone as a result of each tariff incentive and in total for each fiscal period;
- assess non-financial implications achieved or attributable to each tariff incentive or to a combination of tariff incentives;
- justified whether the objectives for implementing each tariff incentive have been achieved or not;
- recommend future line of actions towards each tariff incentive, including cancellations or variations in structure, rates, terms, and conditions; and
- from engagement of stakeholders, provide key observations and notes from following the exposure of an advanced draft of the analysis report to consultation.

Conduct Analysis of the Customs Duties Harmonization Incidence in Economic Integration.

Under the various economic integrations that Nigeria is involved, the study will focus among other things, on the following:

- provide an evidence-based analysis that bilateral and regional trade agreements have contributed to a reduction in trade and investment barriers; and consider also to what extent such economic integration (s) are suited tackling trade and non-trade barriers (NTB);
- examine with evidence that bilateral and regional trade agreements could safeguard against the introduction of new barriers; and the possibility of Nigeria being discriminated against these economic integration agreements;
- analyze the role of economic integration in having a common position on issues at the WTO;
- analyze of the role of trade agreements to facilitate adjustment to global economic developments and to promote regional integration;
- assess the impact of economic integration on Nigeria's trade and economic performance, with respect to: (a) trade flows, (b) unilateral reform, (c) behind-the-border barriers, (d) investment returns and (e) productivity growth of Nigerian economy;
- assess the role of the various trade agreements of Nigeria towards reduction of trade and investment barriers among her contracting partners; and
- examine what the various agreements, both the existing ones and in-coming ones will deliver for Nigeria, including through review provisions and built-in agenda.
- provide succinct capacity building to staff on issues bordering on customs operations and the AfCFTA.

iii. Review of Customs Tariffs from the Perspective of Regional Trade Integration.

Nigeria is a member of ECOWAS since inception in 1975; as well as African Economic Community (AEC), 1991. Therefore, the study will review:

- The impact analysis of the harmonization of trade taxes exemptions across different jurisdictions in the pursuit of a common policy objective in economic integration. In addition, the review would provide an understanding in the following:
- All imports and export tariffs in effect during the fiscal year 2022

- An accurate itemization of all tariffs relevant to regional trade integration
- An assessment of financial and non-financial impacts expected as a result of changes to tariffs that are applicable in the region, and as a result of the harmonization of exemptions.
- Conduct an analysis of the impact of the AfCFTA on Nigeria with respect to, among others:
- An assessment of the financial and non-financial impacts expected as a result of the AfCFTA, to including an accurate itemization of the implications on tariffs
- Provide recommendations on any proposed changes to each customs tariff, including proposals for harmonization, cancellation, variations in structure, changes in rates, terms, and conditions in the course of implementing AfCFTA.
- Document the various observations and notes from stakeholders' engagement following the exposure of an advanced draft of the Tariffs review report to consultation.
- Examine dispute resolution mechanisms, NCS automation procedure and trade facilitation approach of the NCS, under this, the study will consider the
    - mechanism for independent dispute resolution between NCS and importers;
    - certainty of tariff computation on imported items – customs valuation should be in line with Article VII of GATT 1994;
    - possibility of aligning the country's national investment policy with the various incentives measures including tariff concessions and waivers;
    - the Optimization of customs automation and reduction of discretion and human interface via a robust evaluation of the system;
    - benchmarking of NCS operations vis-à-vis what obtains internationally; and
    - relevant policies to ensure the primary role of NCS in trade facilitation and revenue generation.

5. Methodology

The study is patterned in the best approach that will ensure that the objective of the study is met, and a full trade taxation and custom policy study is delivered. This study will commence with a desk review, thereafter engage in experimental research using quantitative and qualitative research techniques to draw evidence from different sources. It will also adopt a triangulation method (use of multiple datasets, methods, and investigators to address the study objectives) via a mixture of primary and secondary data. Consequently, the three objectives of the study would be met following a mixture of these different methods:

(a) Review of Previous Studies and Documents

A desk review of previous studies and documents was undertaken as part of the study. These includes reports on Nigeria's trading relations at multilateral (WTO), regional (ECOWAS) and continental (AU) levels. Other sources of reports reviewed included amongst other, report those from the NCS, Central Bank of Nigeria (CBN), Economic Outlook Reports, International Monetary Fund (IMF), World Bank, Africa Development Bank (AfDB) as well as reports from WCO. Other domestic sources of data on trade will also be part of the review. Specifically, the Consultant received secondary data from the Technical Services Department (TSD) of the FMFBNP, the Federal Inland Revenue Service (FIRS) and Trade and Trade Department of the NCS.

(b) Primary Data collection

This study involved the collection of primary data from national stakeholder consultation as well as other primary sources such as key in-dept interviews. As part of apprising stakeholders of the study and their respective roles its success, between 3rd to 4th of May, 2023, a stakeholder consultation workshop was held in Abuja. The purpose of the workshop was to discuss key sections of the study outcome and obtain firsthand information from invited stakeholders. Questionnaires were administered to each invited institutions two weeks prior to the Workshop and then retrieved at the workshop venue. Respondents was required to answer to questions concerning: (a) the effectiveness of the CEMA on their activities; (b) the impacts of the various tax and duties incentives on their operations; (c) better options to the existing customs management activities; and (d) what Nigeria's should do to improve its trade policy via customs and other relevant institutions. Sample surveys (of exporters and importers) in various sectors of Nigerian economy would be conducted.

(c) Limitations of the Study

One of the limitations of this study is the poor response from the field. Questionnaires were administered to private sector representatives, with poor feedback. We were able use similar study from the AfCFTA National Strategy and Implementation Plan for Nigeria, as a good substitute. This AfCFTA Strategy, under the National Action Committee (NAC) of the AfCFTA, and supported by the United Nations Economic Commission for Africa (UNECA, 2022) involved the administration national sensitization, followed with a survey across the geo-political zones in the country led by the lead Expert, Prof. Jonathan Aremu (Chief Executive of Market Link Consults), in 2022. Questionnaire used in the AfCFTA Study is congruent to that of the Trade

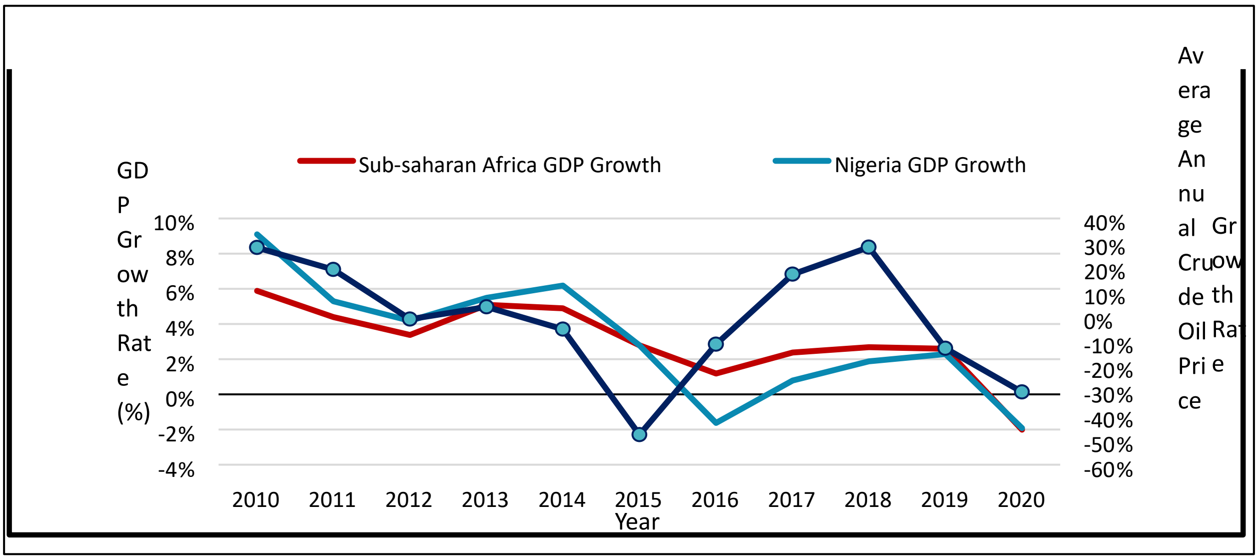
Taxation and Customs Policy Study. Therefore, Marketlink Consults (the Consultant of FMoF) extracted the needed information from the AfCFTA Study for use in the Trade Taxation and Customs Study assignment. The information extracted from the fieldwork on the Perception of Stakeholders on Economic Integration with Reference to AfCFTA is presented in Session IV of this Trade Taxation and Customs Study. The survey mirrored the instrument prepared for the trade taxation and customs policy study. The demographic characteristics of the survey is presented in the Appendix attached to this Report.

SECTION I: MACROECONOMIC PERFORMANCE OF NIGERIAN ECONOMY

A. Growth Rate of the Economy

According to UNECA (2022), Nigeria is the largest economy in Sub-Sahara Africa. In terms of economic size, within a decade (2010-2021) the country's Gross Domestic Product (GDP) growth rate averaged 3.2% compared to sub-Saharan African growth average of 3.0%. As depicted in Figure 1, Nigeria's GDP grew at an average rate of 5.52% between 2010 and 2015 with a peak of 9% in 2010, although driven by high crude oil prices which sold at an average price of $84.7 per barrel during the period. While on the one hand, the non-oil sector contributed 6.2% to this growth and accounted for 90% of total GDP, on the other hand, the oil sector contracted as it recorded -4.5% on average per annum over the same period, 2010-2015.

Figure 1: Nigeria's GDP performance compared with Sub-Saharan Africa and Crude oil prices

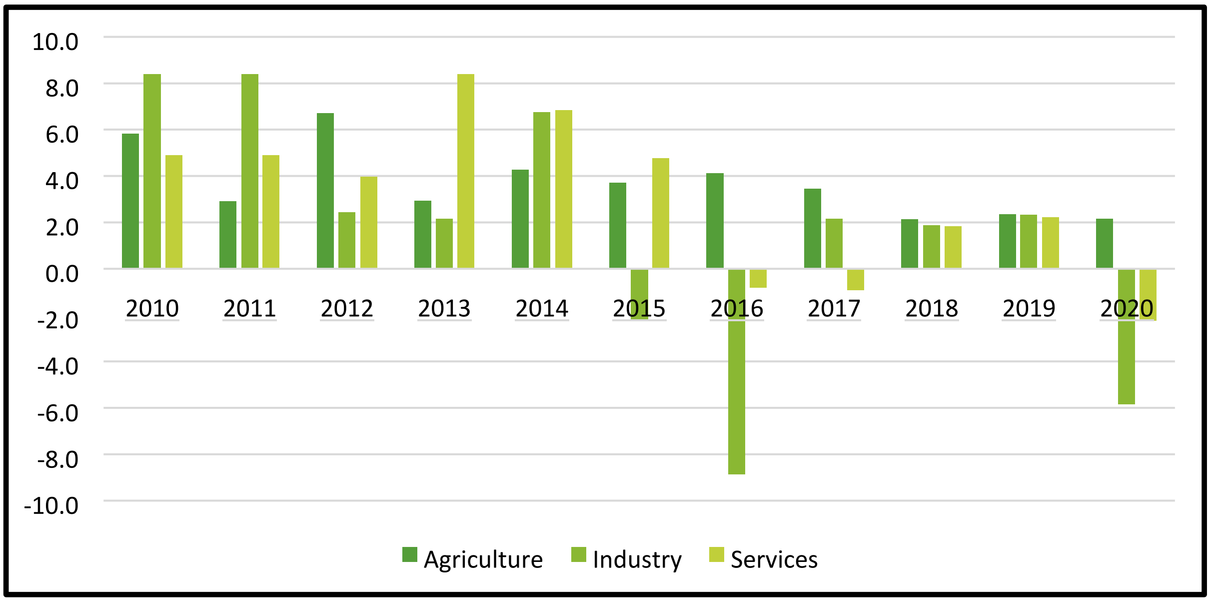


Source: Nigeria AfCFTA Strategy sponsored by UNECA, 2022

However, with two recessions between 2016 and 2020, Nigeria's economy grew at a much slower average rate of 0.3%. The first recession occurred in 2016 as the economy declined by 1.6%, following the crash in crude oil prices by as much as 50% in 2015. Positive GDP growth returned in 2017 albeit anaemic at 0.8% and persisted in 2018 and 2019 at growth rates of 1.9% and 2.3% respectively. As COVID-19 pandemic struck in 2020, the economy entered a second recession with a GDP decline of 1.9% in 2020, as crude oil price once again declined by an average of 30% to historically low values at the height of the crisis, on account of falling global demand and containment measures to fight the spread of COVID–19. The containment measures mainly affected aviation, tourism, hospitality, manufacturing, and trade. Contraction in these sectors off-set the demand-driven expansion in financial as well as information and communications technology sectors.

Figure 2 revealed that Agriculture and Services have largely been responsible for the economic growth within the last decade compared to the industrial sector. Agricultural growth remained positive between 2010-2015, albeit with a declining growth rate from 5.8% in 2010 to 3.7% in 2015 which further declined to 2.2% in 2020 and 2.1% in 2021.However, the services grew faster.

Figure 2: Sectoral Growth Rates (%) of Agriculture, Industry and Services



Source: CBN Statistical Bulletin and Author's calculation

within these periods but declined in the most recessive years. While 2013 and 2014 were the highest growth years within the last decade of 8.4% and 6.8% respectively for services, it (services) declined going forward from 2015, from 4.8% to its first and second negative values in 2016 and 2017 of -0.8% and -0.9% respectively, and the third negative value in 2020 of 2.2%. In 2014, 2018 and 2019 services grew in parallel with the industrial sector. However, as industrial growth declined, services also declined, which is illustrated in 2016 and 2020 due to economic recession. Therefore, while between 2010 to 2014, all sectors witnessed substantial growth, however; from 2015 to 2020 the growth stunted (more pronounced in 2016) across sectors due to the global economic meltdown as well as the pandemic.

In terms of contribution to growth, the services sector contributed more than half to the GDP, the agriculture sector contributed at least one quarter and industrial sector contributed one-fifth. Since 2012, the services sector has persistently contributed above 50% to GDP, and remain more resilient to economic shock even in the aftermath of recession (Table 1). In 2021, services contributed 53% to growth, down from 52% the previous year and 53.6% 2016 down from 53.1% the previous years. Even though overall real GDP was estimated by the Africa Development Bank (AfDB) to have shrunk by 3% in 2020, it declined by 1.92% by the end of the year. Nevertheless, the mitigating measures in the Economic Sustainability Programme (ESP) prevented the decline from being worse.

Table 1: Annual Real Contribution & Growth Rate by Sector (%) Year-on-Year

Contribution to GDP	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**
Agriculture	23.91	23.33	22.90	23.11	24.45	25.08	25.13	25.16	26.21	25.88
Industry	25.61	24.81	24.93	23.71	21.96	22.25	22.24	22.25	21.36	20.56
Services	50.48	51.86	52.16	53.18	53.59	52.67	52.63	52.60	52.44	53.56

Growth	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**
Agriculture	6.70	2.94	4.27	3.72	4.11	3.45	2.12	2.36	2.17	2.13
Industry	2.43	2.16	6.76	-2.24	-8.85	2.15	1.87	2.31	(5.85)	(0.47)
Services	3.97	8.38	6.85	4.78	-0.82	-0.91	1.83	2.22	(2.22)	5.61
Real Growth Rate at Basic Price	4.21	5.49	6.22	2.79	-1.58	0.82	1.91	2.27	(1.92)	3.40
Real Growth Rate at Market Price	4.28	5.39	6.31	2.65	-1.62	0.81	1.92	2.21	(1.79)	3.65
Non-Oil Growth Rate	5.81	8.42	7.18	3.75	-0.22	0.47	2.00	2.06	(1.25)	4.44
Oil Growth Rate	-4.95	-13.07	-1.32	-5.45	-14.45	4.69	0.97	4.59	(8.89)	(8.30)

Source: National Bureau of Statistics, 2022.

Even though overall real GDP was estimated by the Africa Development Bank (AfDB) to have shrunk by 3% in 2020, it declined by 1.92% by the end of the year. Nevertheless, the mitigating measures in the Economic Sustainability Programme (ESP) prevented the decline from being worse. Since 2021, the economy has been recovering fast from the effect of the pandemic. According to the NBS, the first two quarters of 2021 showed signs of economic recovery as the world economy bounced back again from the pandemic. The first quarter of 2021 saw a growth figure of 0.5% increasing by 4.5% to 5% in the second quarter. Similarly, in the first quarter of 2022, GDP grew again by 3.11% (year-on-year) in real terms and 3.54% in the second quarter, showing a sustained positive growth for six consecutive quarters since the recession witnessed in 2020 when negative growth rates were recorded in quarter two and three of 2020. This recent development thus represents rising improvement in economic performance.

B. Position of Some Nigeria's Economic Indicators

Among the macroeconomic policy objectives of Nigeria over the years have been to provide a stable economic environment that is conducive for fostering strong and sustainable economic growth through stable: (i) productivity, (ii) price levels (iii) employment level and a conducive external sector. Some policies towards such objectives include: (i) fiscal, (ii) monetary, and (iii) exchange rate policies. These policies have been employed to finetune economic activities in the country as well as ensure that the strategic development goals enshrined in the past and present development plans are met, including the current Nigeria National Development Plan, 2021-2025.

1. Monetary and Exchange Rate Policy

Money market indicators, especially the Monetary Policy Rate (MPR), prime lending rate, national deposit rate as well as the interbank rate further explains changes in monetary policy which have had implications on the domestic economy in the last decade (Table 2). These indicators have defined the responsiveness of government to domestic and external economic uncertainties. Between 2010-2021, the average interest rate or the MPR rose from 6.1% in 2010 to 11.5% in 2011, albeit remaining stable at 12% between 2011 to 2014. From 2016-2019, it hovered around 13-14%, and then declined from 13.5% in 2019 to 11.5% in 2021. Also, within the decade, the ability of Deposit Money Banks (DMBs) to create loanable funds rose, as the prime lending rates of banks to customers decline on the average from 17.6% in 2010 to 11.5% in 2021. The savings rate for the period has however been depressive, causing a disincentive to save especially in fixed deposit accounts. Except for 2017 and 2018 when national savings rate equaled 4.1%, since 2010 average savings rate declined from 2.2% to 1.7% per annum. However, average interbank rate rose from 4% in 2010 to 12.6% in 2021.

Table 2: Money Market Indicators

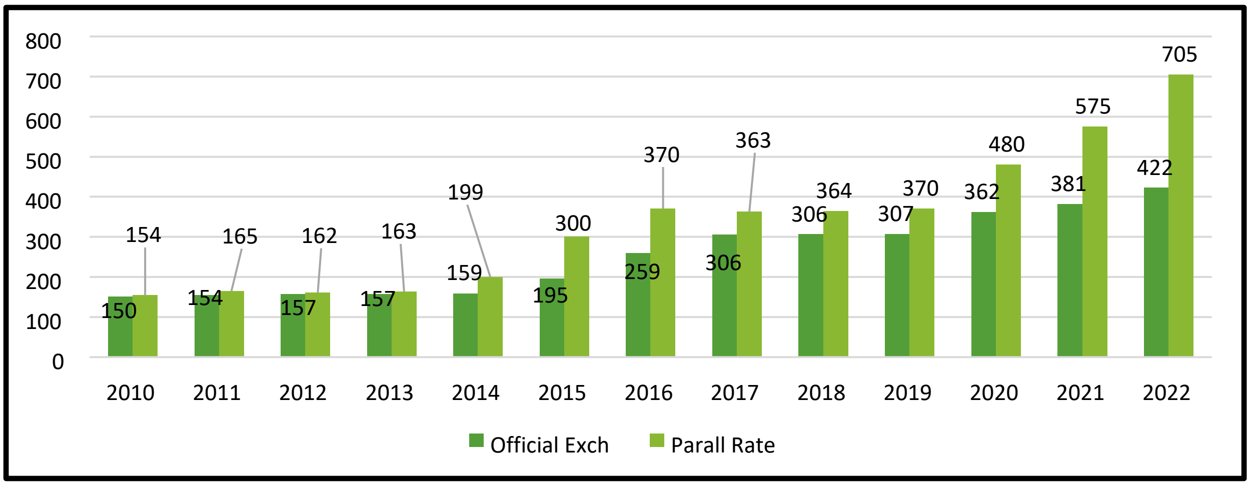
Year	Inter-Bank Call Rate	MPR	Treasury Bill	Savings Deposit	Prime Lending
2010	4.0	6.1	3.8	2.2	17.6
2011	10.5	8.9	9.7	1.4	16.0
2012	13.9	12.0	13.6	1.7	16.8
2013	12.0	12.0	10.9	2.2	16.7
2014	11.7	12.2	10.5	3.4	16.5
2015	12.2	12.7	9.4	3.6	16.8
2016	15.7	12.8	10.1	3.7	16.9
2017	23.0	14.0	12.3	4.1	17.6
2018	12.0	14.0	10.1	4.1	16.9
2019	10.5	13.6	9.3	3.9	15.7
2020	4.9	12.5	1.6	3.2	13.3
2021	12.6	11.5	2.2	1.7	11.5

Source: Central Bank of Nigeria Statistical Bulletin, 2021.

The monetary policy direction in the last three years to 2021 has been expansionary with a declining MPR- the rate at which CBN lends money to the Authorized Dealers (Commercial Banks). The rationale behind this was to ensure employment generation, as well as expansion of domestic investment. In the decline in the MPR in 2020 from 12.5% to 11.5% in 2021 was to support recovery in output in the wake of the COVID-19 pandemic. The monetary policy has relatively remained accommodative driven largely by the need to improve credit flow to key productive sectors that would bolster growth in the economy. Consequently, if the monetary authorities maintain a decreasing MPR in the coming years (though unlikely), the benefits to trading especially under the AfCFTA continental economic integration will be quite significant as the target is to enable small and medium scale businesses get assess to investment finance.

Despite the development in the money market, the volatility in the exchange rate market has been a cause for concern to the monetary authorities. Over the years, the Naira exchange rate has depreciated. As presented in Figure 3, it depreciated in 2010 from ₦150 per dollar to over twice this value, to ₦306 per dollars in 2018/19 while in 2022 it stands at about ₦424 per dollar. At the parallel market, the exchange rate differential is high. Nigeria witnessed its first spike in this market in 2015 when the value of the naira declined from ₦199 to ₦300 per dollar from 2014 to 2015. However, in 2022 the naira exchange is almost ₦700 per dollar.

Figure 3: Average Exchange rate, 2010- 2021



Source: CBN Statistical Bulletin

2. Fiscal Policy Issues

(a) Use of Fiscal Incentives

Under fiscal policy, government has used fiscal incentives to encourage trade and investment over the years including the proper mix of revenue, expenditure and debt management. Furthermore, to boost trade and investment in the long-term, government has made notable infrastructural investments in the last seven years. These include:

- Establishment of the Infrastructure Corporation of Nigeria in 2021 with a seed funding of ₦1 trillion from the CBN, the Nigeria Sovereign Investment Authority (NSIA) and the Africa Finance Corporation;
- Strengthening of Presidential Infrastructure Development Fund (PIDF) through the NSIA financing platform to facilitate road construction in Nigeria such as the Second Niger Bridge, Lagos-Ibadan Expressway and Abuja-Kano Road- key trade routes in the country;
- Introduction of the Road Infrastructure Tax Credit Scheme pursuant to Executive Order No. 7 of 2019, which has incentivized responsible companies to invest billions of Naira in constructing over 1,500km critical roads in key economic corridors. Under this Scheme, the Dangote Group has substantially completed the Reconstruction of 34km Apapa-Oworonshoki-Ojota Expressway and the 43km Obajana-Kabba Road. Similarly, Nigeria LNG Limited is on track to complete the 38km Bodo-Bonny Road and Bridges Project by the end of 2023;
- Introduction of the Sukuk Bonds scheme, since 2017, through this over N600 billion has been raised and invested in 941km for over 40 critical road projects

nationwide, thus complementing the Ministry of Works and Housing's Highway Development and Management Initiative and other interventions;

- Investment in critical rail infrastructure; significantly restoring national railways, completing and commissioning the 156km Lagos-Ibadan Standard Gauge Rail (and its 8.72km extension to Lagos Port); the 186km Abuja-Kaduna Standard Gauge Rail; and 327km Itakpe-Warri Standard Gauge Rail. These completed projects complement the ongoing investments in Light Rail, Narrow- and Standard-Gauge Rail, Ancillary Facilities Yards, Wagon Assembly Plants, E-Ticketing infrastructure as well as the training and development ofan rail engineers and other workers;
- The completion of New Airport Terminals at Lagos, Abuja, Kano and Port Harcourt, and reconstruction of the Abuja Airport Runway in its first overhaul since its construction in the early 1980s; and
- Other investments in airports safety facilities, aeronautical meteorological services delivery complementing the ongoing development of seaports and ancillary infrastructure at the Lekki Deep Sea Port, Bonny Deep Sea Port, Onitsha River Port, as well as the Kaduna, Kano and Katsina Inland Dry Ports to create a truly multimodal transport system.

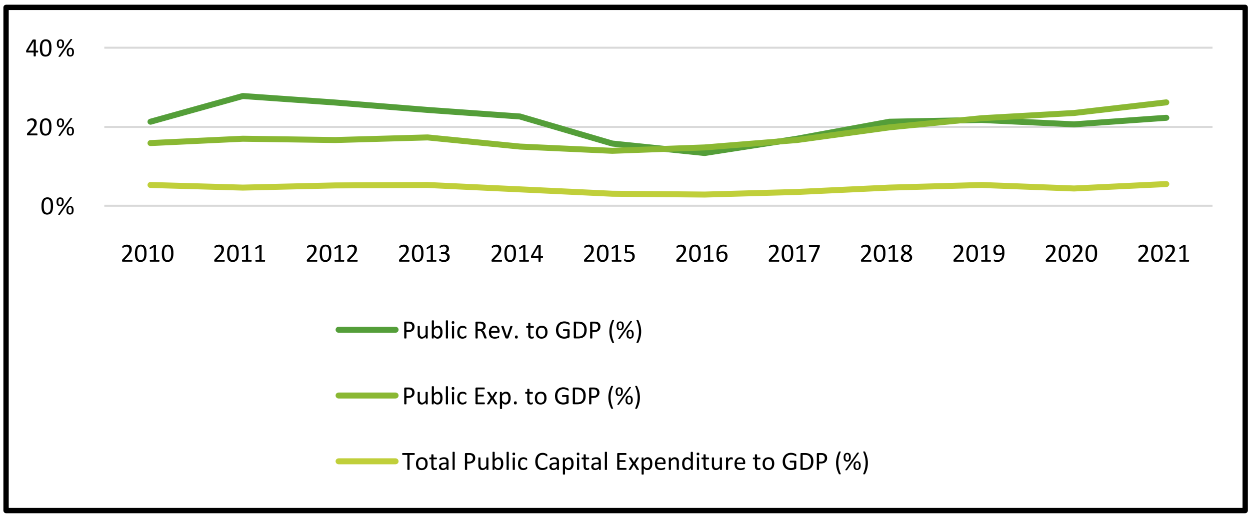
(b) Revenue and Expenditure Analysis

Three major sources of revenue to government include tax, custom and independent revenue. To ensure that the revenue collected support the ongoing trade enabling infrastructural investment, the Nigeria tax system has been undergoing several reforms in the recent times to meet government quest to close the tax revenue gap. Several of these reforms which have regularly been spelt out in the Government Finance Acts produced following the annual budget, pre-and post-2019-2021. These include the increase in the Value-Added Tax (VAT) rate from 5% to 7.5% as proposed by the Finance Act of 2019; the over 80 amendments to the existing tax and regulatory legislations in Nigeria introduced by the 2020 Finance Act further changes in taxes such as the Capital Gain Tax, Companies income tax etc. and the inclusion a new tax area such as the taxation of non-resident digital company.

While there are no export taxes in Nigeria, Customs revenues have remained moderate following the metrics of the ECOWAS Common External Tariffs (CET) with import duty rate of between 0% to 35%. According to the Nigeria Customs, import duties and taxes include a 5-20% excise duty, an automotive levy of between 10%20%, rice levy of 20%, Cigarette levy of 50% to 100%, and sugar levy of between 10%-20%. However, Government is currently developing a framework for recovering duties, taxes from transaction conducted over electronic networks. To facilitate trade and revenue, government is also implementing measures to enhance port efficiency, strengthen anti-smuggling, review tariffs and waivers and issue more licenses to build modern terminals in existing ports, especially outside Lagos.

Since 2017, total public revenue (combination of Federal, State and Local) to GDP has been showing similar upward trend since 2017 (Figure 4) but witnessed a steep decline between 2011 and 2014 from 28% to 23%, declining further to 13% in 2016. Nigeria General Government Expenditure as a share of GDP has been trending upwards since 2015 rising from 14% in 2015 to 26% in 2021 after declining from 17% in 2013 to 15% in 2014. In spite of this increase, public expenditure on capital as a percentage of GDP remains low, lower than 6% over a decade. In the last five years, total actual revenue collected (both oil and non-oil) outpaced actual total expenditure of government at the federal level. Between 2010 to 2015, total revenue increased from ₦7,303.70 billion in 2010 to ₦10,068.90 billion in 2014 averaging 2.3% and declined to ₦6,912.50 billion in 2015 while total expenditure rose simultaneously from ₦4,194.60 billion to ₦4,988.50 billion in 2015 averaging 4.0%. However, by 2016 total revenue collected declined again to ₦5,616.40 billion which is less than twice the revenue collected in the 2011/2012 period.

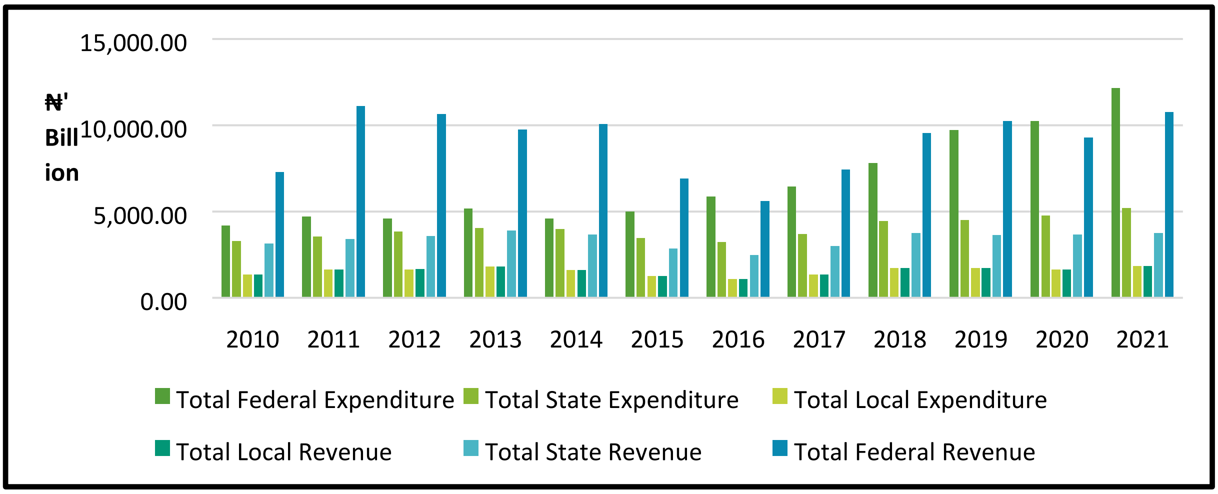
Figure 4: General government revenue and expenditure (% of GDP)



Source: author's calculation from the CBN Statistical Bulletin

Total expenditure increased from ₦4,988.90 billion in 2015 to ₦12,164.10 in 2021 averaging 15.1%, and revenue also increase from ₦6,912.50 billion to ₦10,755.40 billion averaging 3.5%. Although revenue declined, but not at the same pace year on year with expenditure. In 2016, 2020 and 2021, the federal government experience its first deficit in 8 years following the twin effects of both the recession and pandemic. (Figure 5) Within five years, that is between 2010 and 2015, total government actual expenditure averaged 1.6% and rose from ₦3,266.23 billion to ₦3,469.16 billion showing an increase of over ₦202.93 billion while at the same time state revenue declined (averaged -1.2%) from ₦3,162.54 billion ₦2,859.02 billion.

Figure 5: Total Government Expenditure and Collected Revenue in Billion (₦)



Source: CBN Statistical Bulletin, 2021.

Table 3 shows that over the years a larger proportion of the capital expenditure of the Federal government has been spent on economic services sectors of agriculture, road and construction, transport and communication and other economic services followed by capital spending on government administration.

Table 3: Breakdown of Federal Government Capital Expenditure

Year	Administration	% Of Total	Economic Services	% of Total	Social Community Services	% Of Total	Transfers	% Of Total
2010	260.2	29.44	412.2	46.64	151.77	17.17	59.7	6.75
2011	231.8	25.24	386.4	42.07	92.85	10.11	207.5	22.59
2012	190.5	21.78	320.9	36.69	97.4	11.14	265.9	30.4
2013	283.65	25.59	505.77	45.63	154.71	13.96	164.27	14.82
2014	229.63	29.32	393.45	50.24	111.29	14.21	48.75	6.23
2015	226.81	27.71	348.75	42.62	82.98	10.14	159.82	19.53
2016	147.72	22.6	278.95	42.68	68.8	10.53	158.14	24.19
2017	328.94	26.48	542.19	43.64	167.66	13.5	203.51	16.38
2018	446.25	26.53	753.49	44.79	203.42	12.09	278.94	16.58
2019	591.26	25.83	994.19	43.43	264.69	11.56	438.86	19.17
2020	417.14	25.83	701.4	43.43	186.74	11.56	309.61	19.17
2021	635.73	25.2	1,102.46	43.71	303.66	12.04	480.61	19.05

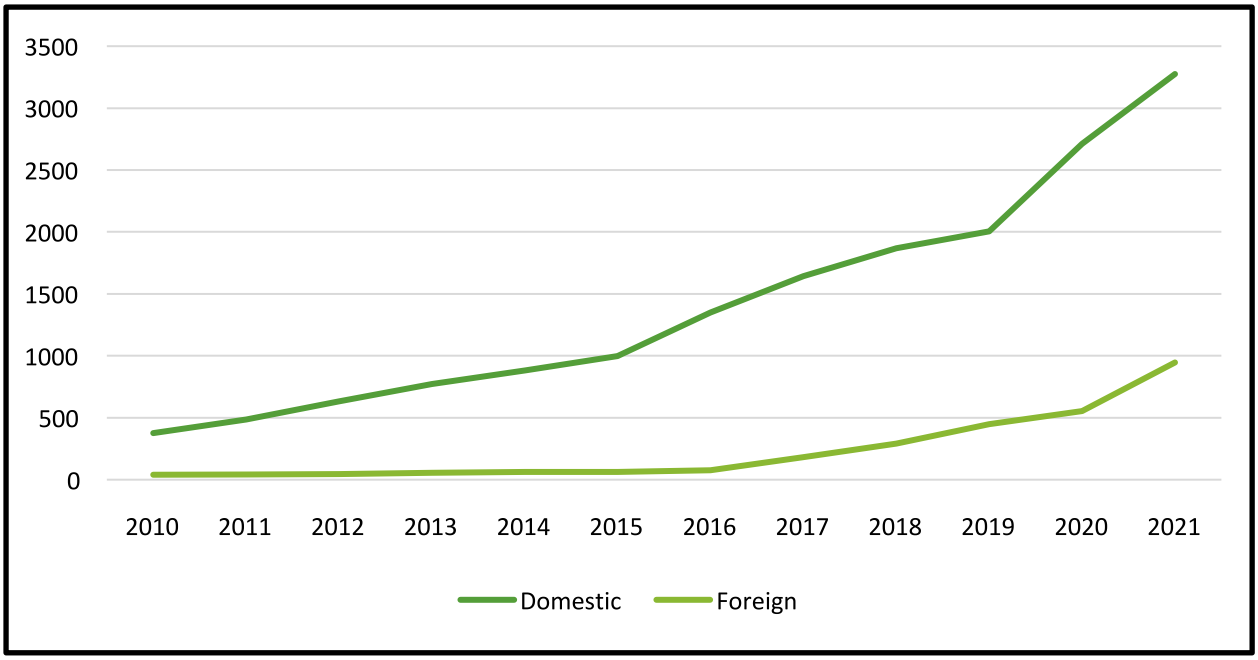
Source: CBN Statistical Bulletin, 2021.

(c) Debt Management

However, given the increasing fiscal deficit in the recent times, government has been borrowing to cover its expenditure. The country's fiscal deficit, financed mostly by domestic and foreign debt, widened to 5.2% in 2020 from 4.3% in 2019, reflecting pandemic-related spending pressures and revenue shortfalls. Domestic debt represented 63% of total debt, while the balance (37%) is external debt. Although, total public debt as share of GDP stood at 23.06% as June 20, 2022, which is within the IMF and World Bank threshold of 55%, however, high debt service payments, estimated at more than half of federally collected revenues, pose a major fiscal risk to Nigeria.

Since 2010, domestic debt Service payment rose from ₦375.8billion to ₦3275.3 billion in 2021 and foreign debt rose from ₦39.8 billion in 2010 to ₦946.28 billion in 2021 (Figure 6). This implies that the exposure of the total debt portfolio to exchange rate risk remains moderate. Furthermore, the exposure to refinancing risk remained stable as a result of the strategy of issuance of long dated securities in the domestic and international markets in addition to accessing long-term funds from multilateral and bilateral lenders. However, the implementation of the Medium-Term Debt Management Strategy is expected to moderate the level of debt related risks, especially refinancing and exchange rate risk, and further improve the structure of the public debt portfolio.

Figure 6: Public Debt Service Payment



Source: CBN Statistical Bulletin, 2022.

C. Performance of Nigeria's Imports and Exports

No country has sustained high level of economic growth and enjoyed significant increases in per capita income without a corresponding of expansion its trade and diversification of its pattern of trade (i.e structure and direction). In effect, the world's richest countries have achieved their developed status by taking advantage of trade-enhancing opportunities offered by more open and increasingly integrated world markets. It is this general trend which suggests that trade should be regarded as a central part of the economic growth and poverty reduction agenda of Nigeria. In fact, the economy of many countries like Nigeria today cannot survive in isolation, hence the importance attached to international trade.

The potential contributions of trade to economic growth and development of Nigeria are many and varied. In general, trade allows Nigeria to exploit her comparative advantage, so that domestic producers are able to sell to their customers in any part of the world; as well as domestic consumers (individuals and corporate) to source goods and services from the most efficient suppliers worldwide. In this process, more and better jobs are generated, household incomes are raised and poverty is reduced. In other words, both imports and exports are sources of economic growth and development to Nigeria; through different channels.

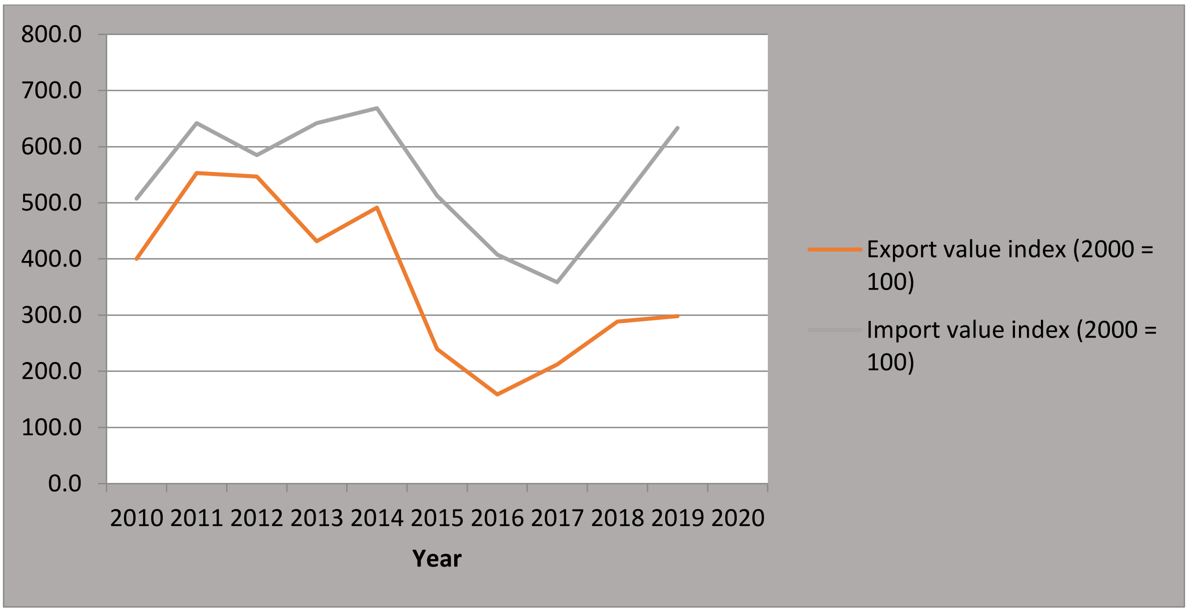
Exports spread positive externalities to the rest of the economy and thus stimulate economic growth. In addition, firms producing for both the domestic and foreign markets are better able to recoup their research and development (R&D) investments over a larger quantity of sales than if selling only in the domestic market. Such firms are also able to improve productivity through efficiency gains from learning by exporting. In the same way, Nigeria's imports foster growth through increase productivity which is a key determinant of economic growth. This is because, openness to imports of capital goods enhances total factor productivity growth. Imports equally bring increased competition to Nigeria's domestic market; thus, creating a stronger incentive to adopt new technologies and to innovate. Furthermore, as the domestic market becomes more competitive, prices are reduced and this further raises the incentive to innovate while also increasing productivity.

While the potential contributions of both imports and exports to economic growth and development of Nigeria are quite significant; the challenges of realizing this potential can also be daunting, because of binding supply-side constraints in the forms of lack of trade-related infrastructure and capacity across the country. However, the challenges faced by developing countries like Nigeria in its participation in international trade cannot be overemphasized, especially because of its peculiar nature. For instance, since the openness of the economy via her membership of the WTO, challenges such as technological know-how which affects the quality her products has made them less competitive. Many of these products have little or no value added to them as they are exported in their crude form. International trade favors the more advanced countries based on their technological know-how. The country ends up importing the final products of the primary goods she exported and often do so at a higher price. International trade can only bring about sustained economic growth if there is a level playing ground. Hence, as long as economies practice the no-barrier system of trade, without protecting local producers, then the desired gain of international trade keeps eluding the country.

1. Real Export and Real Import Value Index

Real export and real import value indices were shown in Figure 7. The value of export and import shows a country's level of interaction with the rest of the world. This also partly determines the exchange rate of the country currency with other major currency of the world, all things being equal. Nigeria's export value index is lower than the Nigeria's import value index throughout the period under consideration. This implies that the Nigeria's import value index is higher than her export value index from 2010 – 2020. One of the implications of this is that, since Nigeria buys more from the rest of the world than the rest of the world buys from Nigeria, the Naira exchange rate, all things being equal, will be lower than the major currency of the world. Also, this situation puts Nigeria more vulnerable to external macroeconomic shocks.

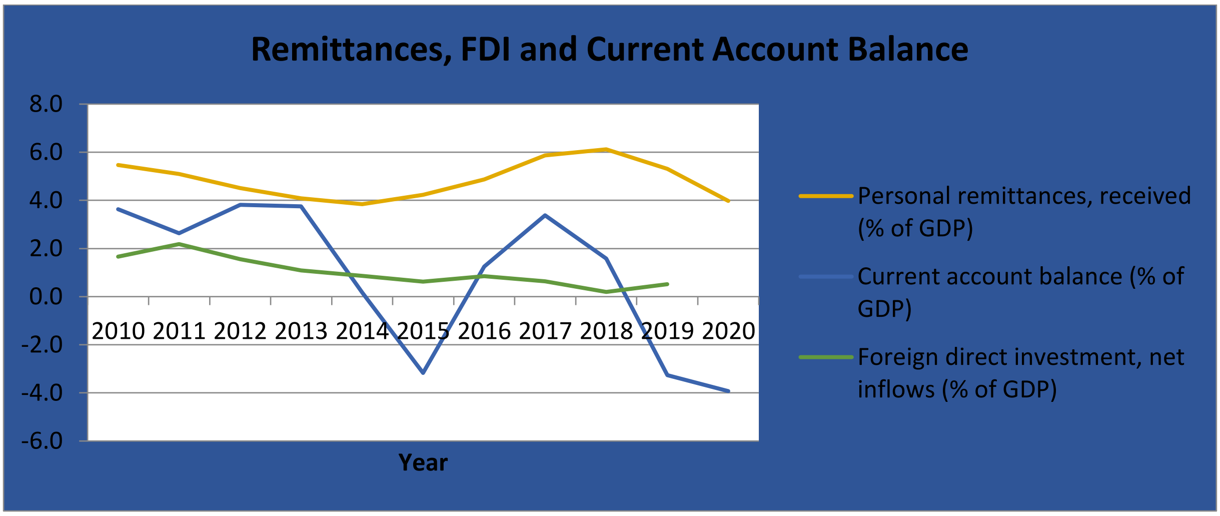
Figure 7: Export and Import Value Index (2000 = 100)



2. Personal Remittances

Figure 8 shows Personal Remittances, Received (% of GDP), Current account balance (% of GDP) and foreign direct investment, net inflows (% of GDP) from 2010-2020. Personal remittances received, percentages of GDP ranges from 5%-6% with the highest proportion of 6% in 2018 and lowest proportion of 4% in 2013 and 2020. Personal remittances received (% of GDP) was higher than the current balance (which fluctuates mostly during the period) and foreign direct investment net inflows (% of GDP). Personal remittances (% of GDP) range between 4.0% - 6%; current account balance (% of GDP) was between 0.1% - 2.1% and foreign direct investment (% of GDP) was between -4% - 3.9%. Hence, personal remittances which are more likely to be spent on current personal consumption are higher than investment inflow in Nigeria. This explained unimpressive performance of the current account balance in the period.

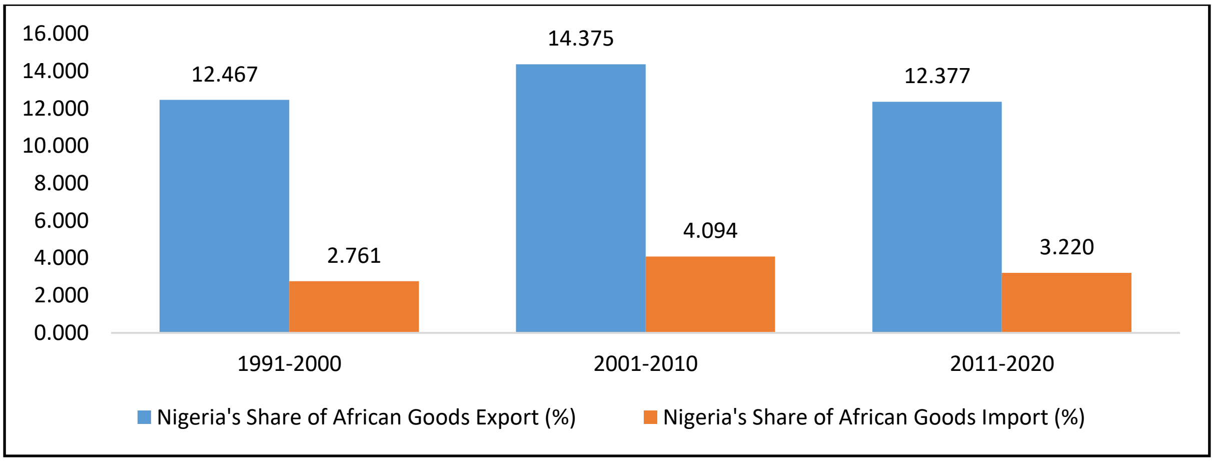
Figure 8: Personal Remittances, Received (% of GDP) Current account balance (% of GDP) Foreign direct investment, net inflows (% of GDP)



3. Analyses of Nigeria's Trade in Some Specific Goods

Figure 9 depicts Nigeria's share of African aggregate goods trade. The export component peaked in the decade of 2001-2010, reaching about 14.4% from 12.5% in the decade of 1991-2000. The next decade's (2011-2020) performance fell below both of the previous decades, indicating quite poor performance in the recent time. The import component of Nigeria's share of Africa's total goods imports show that it has also fallen in recent time, from about 4% in the 2001-2010 decade to about 3%, which is just a few percentage points over what entailed in the 1990s.

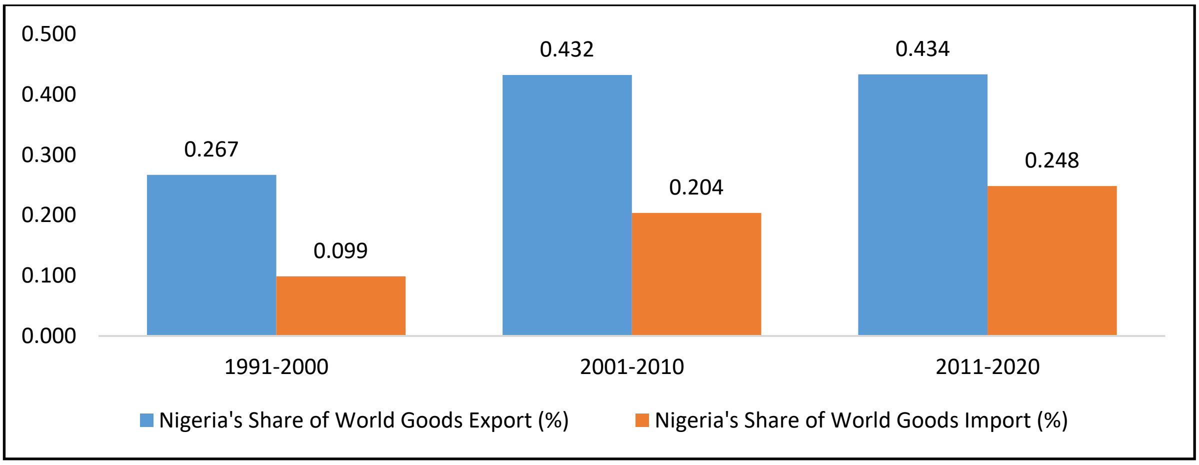
Figure 9: Nigeria's Share of African Goods Trade (%)



Source: World Integrated Trade Solution, 2021

In Figure 10, Nigeria's share of world aggregate goods trade is shown. It is clear that Nigeria fits the small country assumption in world goods trade, with less than 1% of world goods imports and exports. The export component peaked in the decade of 2001-2010, reaching about 0.4% from 0.27% in the decade of 1991-2000. The performance of next decade (2011-2020) is slightly higher by 0.002% and remained quite insignificant, an indication of poor performance. The import component of Nigeria's share of world total goods imports did not fare better than the export counterpart and is far less than 1% ranging from 0.1% to 0.25% between the 1990s and the 2010s

Figure 10: Nigeria's Share of World Goods Trade (%)

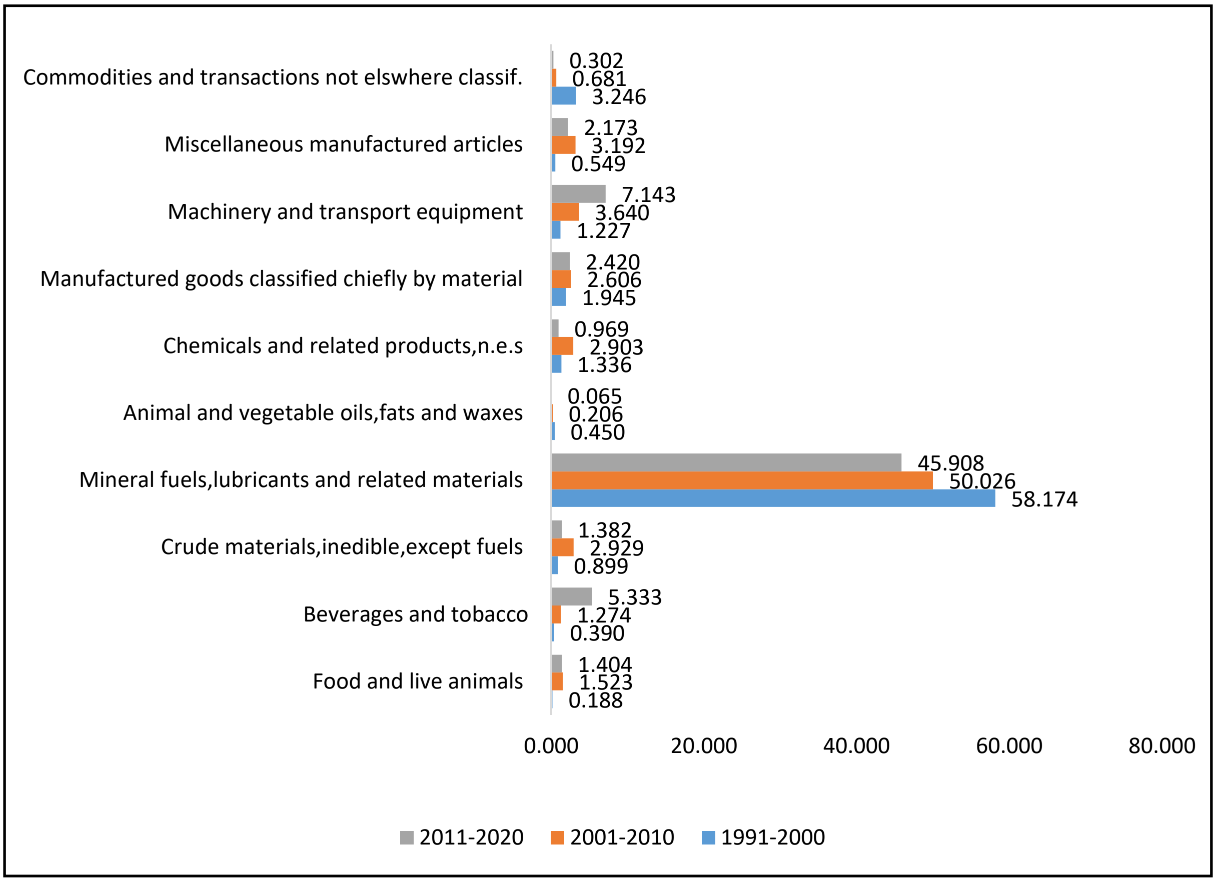


Source: World Integrated Trade Solution, 2021

The share of Nigeria's trade in the African disaggregated goods trade is relatively small. On the average Mineral fuels, lubricants, and related materials dominated Nigeria's share of African disaggregated goods export, as Nigeria accounted for about 58.174%, 50.025%, and 45.908% between 1991 to 2000, 2001 to 2010, and 2011 to 2020 respectively, of total trade in the subsector. This can be linked to the dominance of crude oil in Nigeria's export basket, which has been necessitating the need for diversification to non-oil sectors of the economy. Nigeria contributed about 1.227%, 3.640%, and 7.143% between 1991 to 2000, 2001 to 2010, and 2011 to 2020 respectively, to African trade in machinery and transport equipment. However, Nigeria contributed less than 3% to the remaining selected goods across the years.

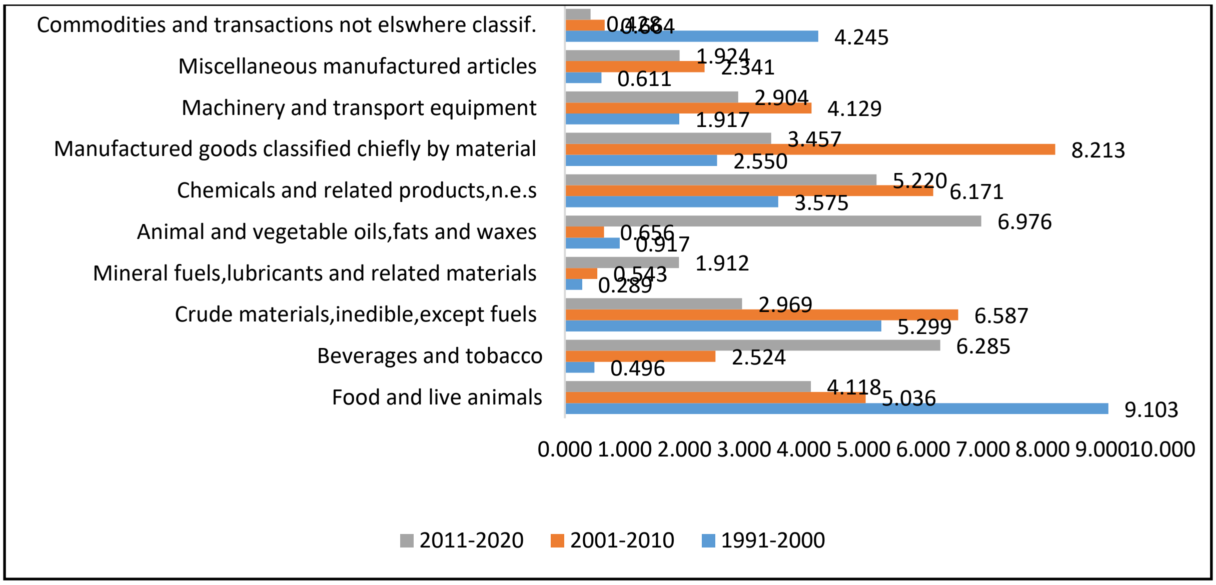
Nigeria's contribution to African import can be observed majorly in chemicals and related products, manufactured goods classified by material, and food and live animal, as they accounted for between 3% and 8% of African import in the categories of goods, on the average. While, Nigeria's contribution to the remaining sub products are less than 3% on the average across the years considered (Figure 11 -13).

Figure 11: Nigeria's Export Shares of African Exports by Commodities (%)



Source: World Integrated Trade Solution, 2021.

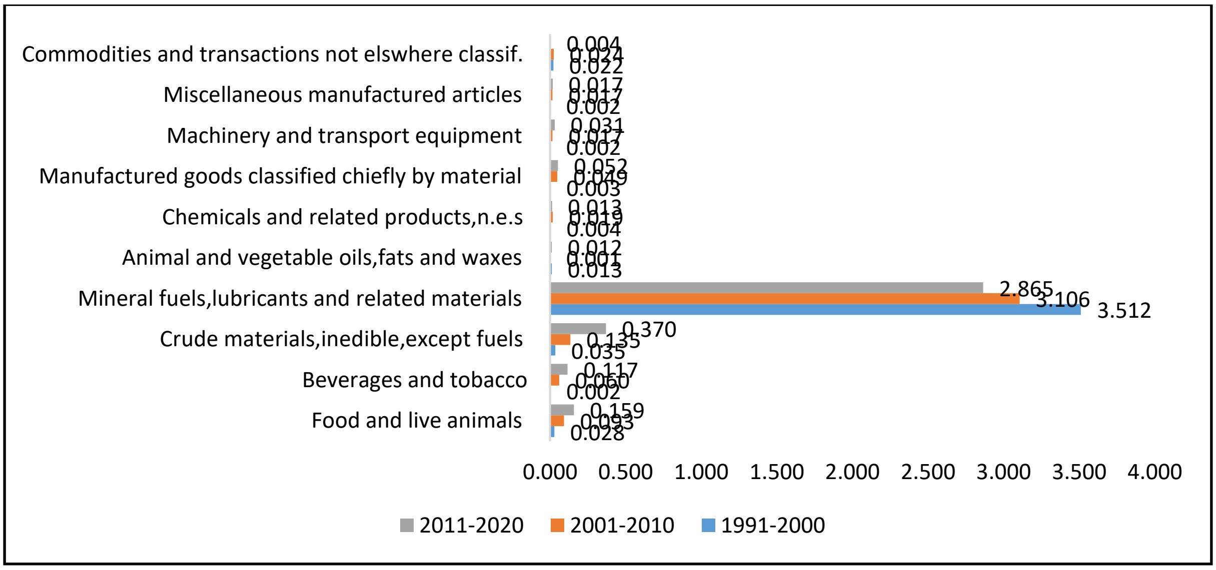
Figure 12: Nigeria's Import Shares of African Imports by Commodities (%)



Source: World Integrated Trade Solution, 2021

Nigeria's contribution to world trade in products is very small. Nigeria contributes an average of about 3% to world export in Mineral fuels, lubricants and related materials across the years considered (Figure 13). Nigeria also contributed less than 1% to world export in the remaining products. The same trends are observed in Nigeria's share of world import of all the selected products, which is less than 1% over the years (Figure 13).

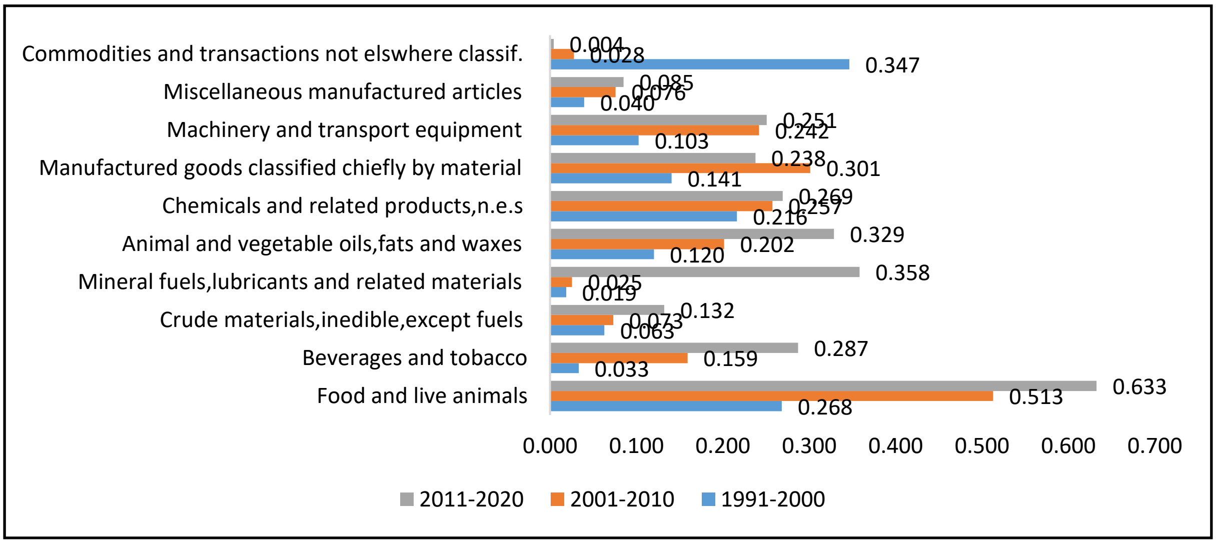
Figure 13: Nigeria's Export Share of World Exports by Commodities (%)



Source: World Integrated Trade Solution, 2021

It can be concluded that Nigeria needs to put in place requisite trade policies and needed infrastructural facilities towards improving Nigeria's trade which is relatively small both within Africa and the world at large

Figure 14: Nigeria's Import Share of World Imports by Commodities (%)



Source: World Integrated Trade Solution, 2021

SECTION II: NIGERIA IN MULTILATERAL AND REGIONAL TRADE AGREEMENTS

Today, Nigeria is faced with many trade cooperation arrangements that have assumed increasing importance as the building block for the creation of larger markets and increasing trade flows (inflow and outflows), into and from the country. The essence of these trading arrangements includes: (a) providing the required solidarity in forging bargaining power under the current globalization of economic activities; (b) creation of larger more viable markets through merging of relatively weak and fragmented markets of DCs and LDCs; (c) preservation of regional markets from unnecessary incursions from the global market place; and (d) locking-in of national trade liberalization of the country into international best practices at regional and multilateral levels.

Effective participation of Nigeria in the various global and regional trading arrangements would depend on 4 main factors, among others: (a) Identification of trade and development objectives within the National Development Plan; (b) Formulation of an effective National Trade Policy towards such objectives; (c) Putting in place the sequence of trade liberalization schemes that is best suited for the country per time; and (d) Establishment of appropriate trade negotiation strategies at regional and multilateral levels. However, Nigeria has recognized over the years that trade agreements are instruments through which she can open its economy and market to commercial opportunities present in the ever dynamic and global market. This why she has negotiated and entered into several of such agreements in a bid to strengthen and expand its economic frontiers. The thrust of these agreements has come in the form of reduction or removal of tariffs, quota / trade restrictions or concessions. The agreements also come either as bilateral or multilateral trade agreements.

A. Nigeria in Multilateral Trade Environment

Multilateral trade agreements are made between two or more countries to strengthen economy of member countries by exchanging of goods and services among them. Nigeria was not a member of the Agreement on Trade and Tariffs (GATT) negotiations that commenced in 1947. However, she became a member of the organization during the Dillon Round, from 18th November, 1960 (Table 4). On 14th April 1994, at Marrakesh, the Uruguay Round was concluded and the World Trade Organization (WTO) established to succeed GATT on 1st January 1995. Thereafter, she became a member of the WTO since 1st January, 1995.

1. Nigeria's Membership of WTO

Nigeria is an original member of the WTO having ratified the WTO Agreement on December 6, 1994; and the organization commenced on January 1st 1995 (Table 5) for the following reasons:

- WTO provides a way of mitigating the undesirable trade and investment actions coming from other countries;

Table 4: GATT Trade Rounds 1947-1994

Name	Start	Duration	Countries
Geneva	April 1947	7 months	23
Annecy	April 1949	5 months	34
Torquay	September 1950	8 months	34
Geneva	January 1956	5 months	22
Dillon	September 1960	11 months	45
Kennedy	May 1964	37 months	48
Tokyo	September 1973	74 months	102
Uruguay	September 1986	87 months	123

Table 5: World Trade Organization Ministerial Conferences since Inception

Serial No of M/C	Date	Host City
1	9-13 December 1996	Singapore
2	18-20 May 1998	Geneva, Switzerland
3	30 November -3 December 1999	Seattle, United States
4	9-14 November 2001	Doha, Qatar
5	10-14 September 2003	Cancun, Mexico
6	13-18 December 2005	Hong Kong
7	30 November -2 December 2009	Geneva, Switzerland
8	15-17 December 2011	Geneva, Switzerland
9	3-6 December 2013	Bali, Indonesia
10	15-18 December 2015	Nairobi, Kenya
11	11-14 December 2017	Buenos Aires, Argentina
12	12-17 June 2022	Geneva, Switzerland

Source: World Trade Organization

- WTO permits a nation to operate predictable, secure and transparent trade and commercial policy;
- Membership of WTO signals to the world that a nation operates best practices in trade policy; and weaker countries, like Nigeria, to be shielded from unfair treatment;
- WTO provides an acceptable way of resolving trade disputes, simplifies the entire global trading system, lowers tariff and non-tariff barriers, and allows developing countries to participate in the shaping global trade rules; and
- Membership of WTO provide a good basis for government to defend its trade policy domestically.
- ECOWAS Member States are all Members of the WTO, though they joined at individual dates (Table 6)

Table 6: ECOWAS Member States with the Dates of Joining the WTO

S/ No	Countries	Dates
1	Benin	22nd February, 1996
2	Burkina Faso	3rd June, 1995
3	Cape Verde	23rd June, 2008
4	Cote d'Ivoire	1st January, 1995
5	Gambia	23rd October, 1996
6	Ghana	1st January, 1995
7	Guinea - Bissau	31st May, 1995
8	Guinea	25th October, 1995
9	Liberia	16th December, 2005
10	Mali	31st May, 1995
11	Niger	13th December, 1996
12	Nigeria	1st January, 1995
13	Senegal	1st January, 1995
14	Sierra Leone	23rd July, 1995
15	Togo	31st May, 1995

Source: WTO

Though Nigeria ratified the WTO, in cases where its provisions have not been incorporated into Nigerian legislation, appropriate procedures are being sorted out to address such situations so as to allow Nigeria traders and investors to invoke relevant provisions for implementation. Under the WTO, Nigeria has been active in the negotiations under the Doha Development Agenda through her membership of several negotiating groups: such as the African Group; Africa, Caribbean and the Pacific (ACP) Group; and the G-90 Group. In the agriculture negotiations, it is in the G-20 and the G-33 groups of developing countries, where Nigeria plays a prominent role. As part of the G-33 group of countries, it also asked for flexibility in terms of market access and reductions in tariff escalations, so as to enjoy special and differential treatment, capacity building, and technical assistance.

(a) Problems Facing Nigeria at WTO

With other developing countries, Nigeria, has questioned many aspects relating to the formulation and implementation of many provisions in the WTO. The decision-making at WTO is theoretically on the basis of equality, with each Member being entitled to one vote. Both power and capacity imbalances may essentially negate this fundamental legal equality to participate in decision making provided for in WTO law. No wonder, WTO/ Director General himself in 2016 stated that: "The WTO is an organization in which all decisions are taken by consensus; where every member government, holds the equivalent of a UN Security Council veto; but there is also no denying that some members are more equal than others when it comes to influence" With the outcome of the 11th Ministerial Conference of WTO at Argentina in 2017, both Wyden Grassley C. R. Wyden (2019) concluded that the negotiating process at the WTO has largely broken down. Why? Under the old GATT system, from 1947 to 1994, there were 8 negotiating rounds – each of which led to lower tariffs and fewer trade barriers among all GATT members. To this day, the basic rules that govern global trade were negotiated under the GATT. But in the 28 years since the WTO began operation, there has been no new significant multilateral market access agreement. It is doubtful whether WTO can benefit all its members.

B. Nigeria in the Regional Economic Integration Agreement

In less than five years after the GATT was established, waves of regional trade agreements (RTAs) began with the creation of the European Coal and Steel Community in 1951. Today, virtually all countries of the world are members of one form of economic integration or another; and many belong to more than one (Arashiro Z, Marin C, and Chacoff .A 2005);. Thus, multilateral regionalism exists today (Kanal Saggi, 2005); in which both global trade arrangement and economic integrations in form of numerous regional trade arrangements are seen to complement the WTO with varying degree of width and depth of phases (Table 7).

Bergsten, C. F (2002), expressed various reasons for economic integration include: (a) economies of scale reasons; (b) fostering of specialization and learning by doing; (c) managing immigration flows as well as promoting regional security; (d) joint development of infrastructural facilities like road, water ways, power supply and etc; (e) smaller nation may use economic integration to seek safe-haven (protection) with larger nations (e.g. NAFTA); and (f) opportunity cost of not belonging to any rises as more of them are available (Canada's desire to join NAFTA). Such regional and international agreements are expected to stimulate productivity and competitiveness of Nigerian economy through economies of scale and lower transaction costs. Most important among the trade agreements.

Table 7: Phases of Economic Integration

	Free Trade Between Member State	Common External Tariff	Free Movement of Factors of Production	Harmonization of Economic Policy	Centralization of Economic & Monetary Policy
Free Trade Area	Yes	No	No	No	No
Customs Union	Yes	Yes	No	No	No
Common Market	Yes	Yes	Yes	Yes	No
Economic Union	Yes	Yes	Yes	Yes	Yes

Nigeria is currently faced with are the following economic integration agreements: ECOWAS-Common Trade Policy; EPA with EU; AEC with AU Members- AfCFTA; and Multilateral Negotiations at WTO. While the goal of Nigeria's participation in these arrangements are for the maximization of advantages of inherent opportunities in them, the sequence of engaging in them is yet to be agreed upon.

1. ECOWAS Economic Integration Agreement

ECOWAS was established in Lagos, on May 28th 1975 to integrate economic activities of Member States as a borderless region where the entire population has access to its abundant resources and is able to exploit same through the creation of opportunities under a sustainable environment. A revised version of the Treaty was agreed to on July 24th 1993 in Cotonou. Considered as one of the pillar regional blocs of the continent-wide African Economic Community (AEC), the goal of ECOWAS is to achieve "collective self-sufficiency" for its Member States by creating a single large trading bloc through the building of a full economic union.

The community has achieved some level of success with respect to ECOWAS Trade liberalization Scheme (ETLS) i.e. the regional FTA; The customs union phase was established with common external tariff (CET) with 5-bands since 2015, and it is on its way to becoming a Common Market by allowing the Inter- regional flow of factors of production in the emerging ECOWAS Single Market Economy. Currently, substantial harmonization of policies on trade, investment, finance, agriculture, are ongoing in preparation for the emerging common market. A Common Trade Policy (CTP) is being worked upo, as Nigerian Government declined from the take -off of a previous one in 2018 due to inadequate consultation in the country. Nigeria is a party to so many regional agreements, an as the largest economy and market in the African sub-region, it is important for the country to position itself for mutually beneficial trade within and beyond the ECOWAS community.

2. EU/ ECOWAS Economic Partnership Agreement

ECOWAS has been negotiating an FTA in the name called Economic Partnership Agreement (EPA) with the European Union (EU) since 2004. As presented by EU, the EPA intends to foster the gradual integration of the African Caribbean and Pacific (ACP) countries into the global economy on the basis of an open, transparent, and predictable framework for trade and investment. Towards the end December 2007 (deadline for conclusion of EPA) when it appeared that the negotiations cannot be concluded as scheduled, EU sent individual national draft to Ghana and Cote d'Ivoire (the 2 non-LDCs) to initial an interim EPA each; a decision against the objectives of Cotonu Partnership Agreement (CPA). Cote d'Ivoire and Ghana signed an interim agreement each with EU on the 7th and 13th December respectively; while Nigeria kept away from it.

Thereafter, ECOWAS Community set an objective for the regional EPA negotiators was to conclude the negotiations with EU before October 2014, (i) to ensure the continuity of the trade preferences to Côte d'Ivoire and Ghana, (ii) guarantee a single trade regime for the region with the EU and thus (iii) safeguard regional integration achievements. At the conclusion of the negotiation of the EPA agreement in 2014, Nigeria declined signing the EPA with the EU, since a CET in West Africa as a prerequisite to the signature of the EPA between the EU and ECOWAS has not been put in place among others. The Nigerian position has had a strong impact on the implementation of the EPA in the region, to extent that implementation could not take off as scheduled. In fact, the EPA talks have led to the application of several different tariff regimes in the region that are much less advantageous for Nigeria. For instance, non-reciprocal market access applied of the "everything but arms" (EBA) for the twelve ECOWAS Least Developed Countries (LDCs) and interim for both Ghana and Cote d'Ivoire; while Nigeria has no option but to be considered under the Generalized Special Preferences (GSP), which is inferior to Lome IV for the LDCs.

For not signing EPA, Nigerian government is concerned about the following issues:

- How to manage the expected loses of fiscal revenue when Nigeria finally ratifies the EPAs the way it is now;
- Will Nigeria's trade liberalization with a more economically powerful and homogeneous EU not be in the larger interest of the EU alone?'
- How to curb deflection of EU products from entering Nigerian market through the LDCs and the non-LDCs that acceded to either EBA or interim EPA respectively;
- How to cope with more competition against Nigerian products in ECOWAS intra – Community trade (ETLS), particularly as Morocco intended to come;
- How to deal with limited negotiation capability of Nigeria to negotiate on the matter, since ECOWAS negotiation appears not acceptable to Nigeria; and
- Can Nigeria not look for separate EPA with EU?

ECOWAS Commission has re-opened the EPA negotiation in 2023 to address Nigeria's concern as well as emerging development in the region and in Africa with the commencement of the implementation of AfCFTA. Perhaps, ECOWAS will now be able to conclude the negotiation since implementation of CET has commenced since 2015.

3. African Economic Community Treaty

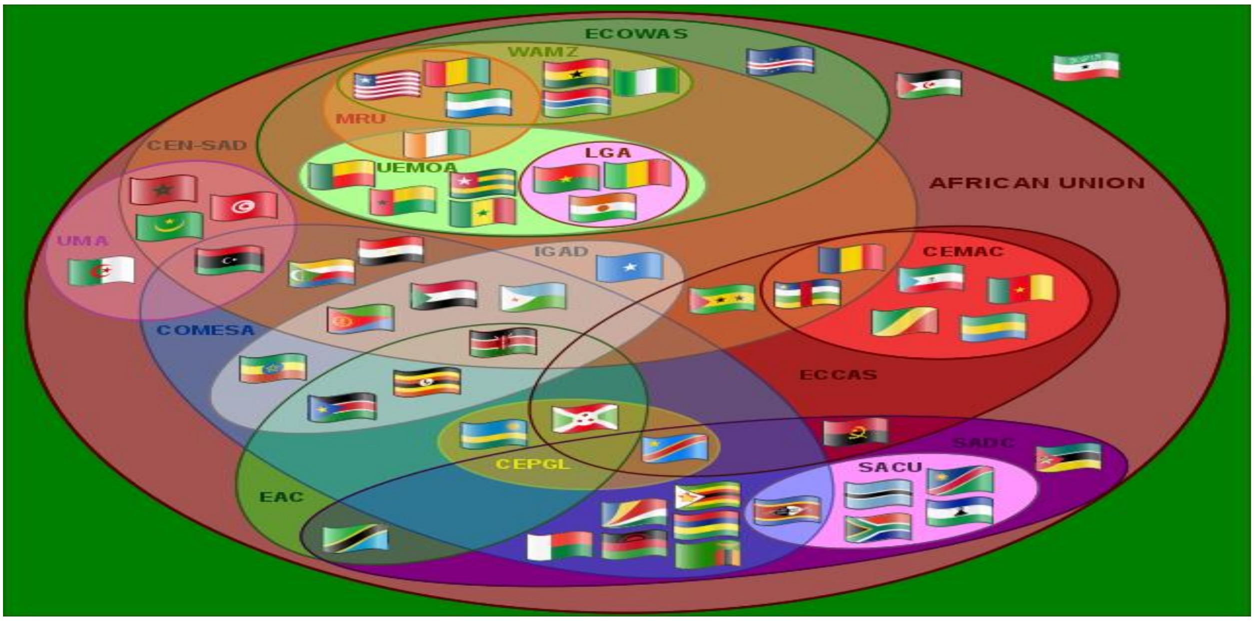
Among the objectives of Organization of African Union (OAU) Charter was to address Africa's peculiar situation of underdevelopment. In 1980 the OAU Extraordinary Summit adopted the Lagos Plan of Action, as a major step towards that goal. The commitments in the Lagos Plan of Action translated into Abuja Treaty, in June 1991 when the OAU Heads of State and Government established the African Economic Community (AEC). The AEC Treaty has been in operation since May 1994 when the required number of instruments of ratification for its coming into force were deposited with the Secretary General of the OAU/AEC. According to UNECA (2017), when AEC entered in force in 1994, a roadmap of six phases economic integration was agreed upon as follows: Stage I Creation of regional blocs (that is, the Regional Economic Communities or RECs); Stage II Strengthening of intra-regional integration and the harmonization between the blocs; Stage III Establishment of free trade areas and customs unions in each the RECs; Stage IV creation of a continental free trade area and customs union; Stage V Creation of an African common market; Stage VI Establishment of an African economic monetary union and a parliament. Among the objectives of AfCFTA are to:

- create a single continental market for goods and services, with free movement of business persons and investments, and thus pave the way for accelerating the establishment of the Customs Union;
- progressively liberalize market for goods and services

- Contribute to the movement of capital and natural persons and facilitate investments
- promote industrial development through diversification and regional value chain development, agricultural development and food security;
- expand intra-African trade through better harmonization and coordination of trade liberalization and facilitation and instruments across the RECs and across Africa in general;
- enhance competitiveness at the industry and enterprise level through exploitation of opportunities for scale production, continental market access and better reallocation of resources; and
- Resolve the challenges of multiple and overlapping memberships (Figure 15) and expedite the regional and continental integration processes.

Nigeria is a signatory to the Treaty establishing the AEC, during the 18th Ordinary Session of Assembly of the African Union (Addis Ababa, Ethiopia, 23-30 January 2012), the summit adopted

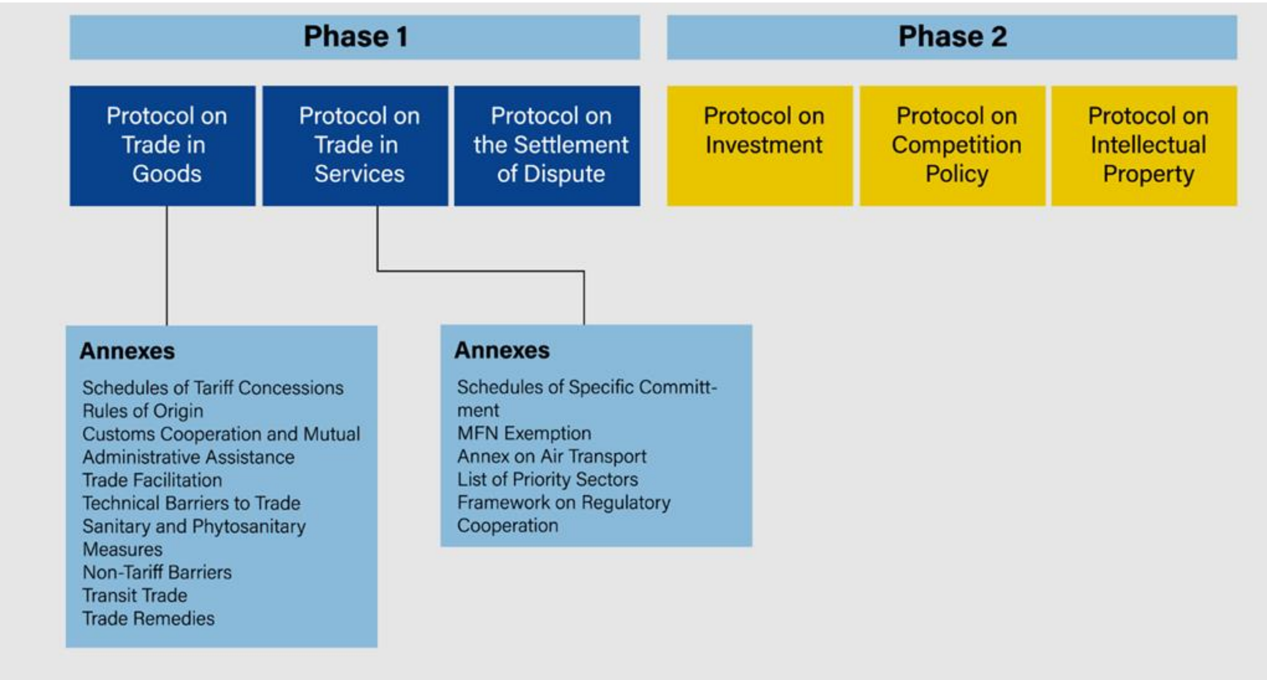
Figure 15: Spaghetti Type of Regional Economic Communities in Africa before AEC



a "Decision on boosting intra-African trade and fast tracking the Continental Free Trade Area". Negotiations were subsequently launched by the Assembly in June 2015 and effective negotiations started in July 2016 after a preparatory phase. The AfCFTA Agreement and its Protocols were negotiated by all the membership of the African Union. The signing of Stage 1 comprising the following protocols of the AfCFTA took place during the 10th Extraordinary Summit of the Assembly of the AU on 21 March

2018 in Kigali: The Framework Agreement Establishing the AfCFTA, the Protocol on Trade in Goods, the Protocol on Trade in Services, and the Protocol on Rules and Procedures for the Settlement of Disputes. Ratification and coming into force of the Treaty occurred on the 30th May 2019. Nigeria signed on the 7th of July, 2019 and ratified the Treaty on the 5th of December 2020. Those States that ratify the agreement would have to make domestic adjustments in their national laws to comply with obligations imposed by AfCFTA. The architecture of AfCFTA and its implementation phases are presented in Figure 16

Figure 16: Architecture of AfCFTA and its Implementation Phases



Source: AfCFTA

4. Nigeria in Economic Partnership Agreement with European Union

In 1975, the first of a series of five-year Conventions – known as the 'Lome Conventions' was signed between European Economic Community (EEC), now known as European Union (EU) and African, Caribbean and Pacific (ACP) countries. The agreements gave the ACP non-reciprocal trade preferences to European markets; i.e. the relationship made ACP products to have better access to European markets than other developing or developed countries without having to offer reciprocal preferences to EU in return. However, the Lome trade provisions were increasingly challenged due to the "wind of change with the establishment of WTO 1995, by other members of the organization because such preferences were seen to discriminate against non-ACP developing countries; and hence incompatible with at least one major WTO rules (most – favored – nation principle).

The fourth and final Lome Convention was signed in 1996 and expired in 2000. Under a ‘waiver granted at WTO, its provisions governed trade between ACP countries and EU only until December 2007. In preparation for the exit of the age-long trade preferential relationship between ACP and EU, a new deal – Cotonu Partnership Agreement (CPA) was signed in 2000 to replace the Lome Convention. The CPA aims to: (i) reduce and eventually eradicate poverty; as well as (ii) gradually integrate the ACP countries into the world economy. To achieve these two critical aims, it sets out three pillars for itself: (a) development cooperation (aid); (b) political cooperation; and (c) trade. The trade pillars provided for negotiations of a new agreement known as Economic Partnership Agreements (EPAs).

(a) EPA Negotiations Road Map

In September 2002, talks on EPAs began with the aim of concluding its negotiation by December 2007 and their eventual coming into force as from January 2008. EPAs were negotiated between the EU and six regional groupings of ACP countries: four of them in Africa, one for Caribbean and one for the Pacific. All the parties (i.e. the EU and the ACP) committed themselves to the timely conclusions of EPAs. However, many countries were unable able to conclude the negotiations as at December 2007. The negotiations themselves had been marred by delays with numerous issues remaining unattended by the EU particularly as they affected ACP countries. While most ACP countries faced serious constraints in their capacity to prepare for EPA negotiations and implementations, the EU had not always responded as promptly as expected to ACP countries’ requests and positions during the negotiation.

It was expected that the EPA negotiation should be concluded at least a few weeks before the end of 2007, to allow its provisional entry into force by 1st January 2008 after notification to the WTO. With the conclusion, each EPA will have to be approved by the ACP parties and by the EU Council (comprising all the 27 member States of the Union). If the conclusion cannot be reached by some countries or region, by December 2007, the concerned ACP (countries) or regions could avail themselves to an interim agreement, or the Generalized System of Preferences (GSP, while negotiations continue. The failure of one ACP country to ratify an EPA or its interim along with regional partners could have serious adverse consequences on the country as well as the regional integration process where such a country belong. This became the situation of Nigeria since December 2007.

As the deadline approached, EU threatened that there would be no “option B”, and thus mounted undue pressure on ACP to accept its proposals through unhealthy manipulation and threats about cancellation of prospect for aid in addition to loss of market access. With the issue of development component not attended to in EPAs proposal that are drafted by EU to marginalize ACP, EU's EPAs threatens to further deepen the poverty situation of ACP. Nigerian position appears to be unclear, and even for the entire ACP, some questions need to be answered.

(b) Unfairness in EPA Negotiations

(i) EPA Negotiations were Unbalanced

From the start, the EPA negotiations as been extremely unbalanced. Unfortunately, the dependence of most ACP countries on the EU assistance and for market access had made it difficult for these countries to resist issues against their interests in the EPA negotiation processes, let alone to be able to promote their own national or regional interests. In many instances ACP trade negotiators and their regional Secretariats (like ECOWAS Commission) overstretched in dealing with multiple negotiations both with EU and at the WTO (such as Doha Development Agenda – DDA). In addition, many of the civil servants of the various governments at ACP levels lack the analytical competence to deal with the issues in EPA negotiations effectively; and most often had to seek expert opinion from the same EU, to negotiate against EU (what a paradox). At the driver's seat at EU Secretariat, it was the Directorate of Trade at the European Commission (EC) that directed the EPA affairs as opposed to Directorate of Development.

(ii) EPA was Forcing Trade Liberalization on ECOWAS

Nigeria has expressed grave concern with the idea of reciprocity clause in the EPA, given the possible adverse effect it would have on their domestic production as well as fiscal stability. This was why in April 2006, a chorus message from all ACP Ministers of Finance and Economic Affairs was echoed to the EC to 'put development dimension first in the EPA negotiations so as to allow each ACP State and Region the needed flexibility to make its own decisions on the timing, pace, sequencing, and product coverage of market opening in line with each country's macro-economic policy objectives and strategies. EPA of the EU was likened to "do as we say now and not as we did". This because, historically, the industrialized West did not themselves develop through rapid trade liberalization that is been forced on the ACP States in the EPA. In 19th Century, both UK and United States engaged tariff protection, subsidies and other policy interventions to promote their industries. EPA was saying ECOWAS should hurriedly graduate from an FTA to a customs union so that the union can form an FTA with EU – what a hop-step and jump economic integration agenda.

(iii) EPA Imposing Reciprocity of WTO is rather Unfair

The current WTO rules governing Regional Trade Agreements (RTAs) as contained in Article XXIV of the General Agreement on Tariffs and Trade (GATT), envisaged RTA among developed countries; while an RTA between developed and developing countries were not thought off. Application of reciprocity rules under an economic integration arrangement between parties of different economic development levels would never produce a pro-development outcome for developing or least developed countries. The less developed in such a North-South RTA is unprotected and the result is what you see when a 'heavy weight title holder contest with a feather weight counterpart in a boxing ring'. (one party is committing suicide). Even if EU extended the time frame for additional 20 years, many of the ACP may not become "heavy weight contesters". In fact, it may be difficult to predict what their situation will be in another 20 years. Extent of engaging in liberalization should not be determined by time but on the development needs of liberalizing economies.

(iv) EPA is a Threat to ECOWAS Economic Integration.

Paragraph 5 (b) of GATT Article XXIV provides that regional trade agreement can bring benefits to contracting parties in line with Jacob Viner's economic integration analysis. But economic integration initiative of FTA version could threaten the relationship if hurriedly pursued; instead of allowing it to grow on its own internally – driven pace, and not forcefully imposed. Towards the end of 2007, determined to break the ECOWAS Community, EC sent EPA draft to ECOWAS and West African Economic and Monetary Union (UEMOA), and national draft to Ghana and Cote d'Ivoire; a decision that definitely disintegrated the community against the objectives of CPA. Cote d'Ivoire and Ghana signed their individual interim agreement each with EU on the 7th and 13th December respectively. This development had been having consequences on the entire ECOWAS region because with Ghana and Cote d'Ivoire liberalized trade with EU, the EU the liberalized goods have been circulating in the region unofficially. This has forced Nigeria to put in place rigorous border control against products smuggled from countries that signed either interim EPA (Ghana and Cote d'Ivoire) or EBA countries operating under Lome IV (the rest of ECOWAS Member States).

(v) EPA cannot Guarantee Effective Access to European Market

Any market access to Europe is of little importance if there are other constraints preventing ECOWAS products from being exported to EU. Rules of origin, for example, are supposedly to prevent the situation where by products from countries who aren't beneficiaries of preferential trade arrangement are routed through beneficiary countries to exploit the preferences. These can act as a real constraint on countries that rely on components of products from other countries. The complex administrative burden with which rules of origin are operated acts as a barrier to exports. This is why many ACP countries were unable to exploit their preferences under successive Lome Agreements. In addition, the supply – side constraints in ECOWAS Member States, such as poor infrastructure and transport also have to be dealt with; and the content of the EPA in its current form had not addressed these issues very well.

C. How Economic Integration Works

Professional economists had carried out intensive studies as to the likely impact of economic integration on trade. The pioneering study on the subject matter started in the middle of the 20th century when an American economist, Jacob Viner, (1950) questioned the efficacy of economic integration within an imperfect world that is full of trade restrictions. His submission was that the simultaneous trade creating effects due from the elimination of internal barriers within the regional trading blocs must outweigh the trade diversion effects in terms of discrimination against non-member exports that are likely cheaper for an economic integration to be beneficial to members.

Viner identified two ways in which a customs union with CET can affect trade patterns and resource allocation. There will be commodities in which one of the members of the customs union will now newly import from the other but which it formerly produces by itself because the price of the protected domestic market for the product was lower (because of high tariff against completing imports) than the price at any foreign source plus the import duty. The shift to import from a custom union partner is a shift from a high-cost domestic producer to a lower-cost customs union partner producer. Also, there will be other commodities which one of the members of the customs union will now newly import from the other member within the union, whereas before the customs union it imported them from a third country, because that was the cheapest possible source of supply even after the payment of import duty.

The shift to import from a higher cost producer within the union from the lowest cost producer from the third country is a shift that simultaneously accompanies regional protectionist policy of a customs union. Viner called the first outcome trade creation and the second, trade diversion. He went ahead to say that when trade creation is dominant; a custom union raises the welfare of its members collectively and raises world welfare also. However, when trade diversion is dominant, a custom union may reduce the welfare of its members collectively and the welfare of the whole world as well. Trade creation happens when the removal of trade barriers leads to an increase of trade in goods and services among the members of the trading bloc. That is, trade is said to be created if the economic integration shifts production from higher-cost to lower-cost producers within the region. On the other hand, trade diversion, is seen as a cost to the region and to the world at large; because the trade liberalization in the contracting member states of the economic integration induces a shift from lower-cost products and services sourced outside the region to high-cost producers within the trading bloc, who can sell more cheaply since they no longer have to pay any import duty.

To demonstrate these effects, we assume that the production cost of commodity A in Nigeria, Ghana and China are $50, $40, and $30 respectively in Table 8. Other assumptions here are that: there are no transportation cost, further mark ups, and etc so that the production cost as stated equalizes with the selling price but tariffs are the only source of diversion between the production cost and the selling price of the product.

Table 8: Price of Commodity A in Nigeria, Ghana and China

Country	Cost of Production ($)
Nigeria	50
Ghana	40
China	30

If Nigeria imposes a tariff of 100 percent on import of commodity A from Ghana and France, the cost price of the product for the three countries becomes what is shown in Table 9. The Nigerian producer's price will be the cheapest. The entire demands for the

Table 9: Price of Commodity A with 100% Tariff on Ghana and China

Country	Cost of Production ($)
Nigeria	50
Ghana	80
China	60

product would therefore be met by the domestic supplier in Nigeria. Therefore, there will not be any need to import the product from either Ghana or China because the import duty has made overseas prices to be expensive relative to Nigerian price of commodity A. However, if Nigeria imposes a 50% non-discriminatory import duty instead, the situation would have been different from Table 9 as it now appears in Table 10. Nigerians would prefer importing the product from France (the lower-cost source) as the price charged by domestic manufacturers will be $50, that of Ghana, $60 as against $45 from China.

Table 10: Price of Commodity A with 50% Tariff on Ghana and China

Country	Cost of Production ($)
Nigeria	50
Ghana	60
China	45

If we assume that Nigeria and Ghana agree to have a customs union with a common external tariff as earlier defined, the resultant effect will be as shown in Table 11. Nigerians will now be importing commodity A from Ghana at the price of N40. From this development, import is switched from the low-cost supplier (France) to the high-cost supplier (Ghana) within the union. This situation is referred to as Trade Diversion – in which imports from a more efficiently producing country in the world are switched to a less efficiently producing country within an economic integration union. This development reduces the efficiency of world production.

Table 11: Price of Commodity A with 50% Tariff on China alone but with a common external tariff for Ghana and Nigeria

Country	Cost of Production (₦)
Nigeria	50
Ghana	40
China	45

According to Aremu (2001), three corollaries emerge from the above explanations:

- if neither of the two countries that engage in economic integration produces
- commodity A, the FTA or the customs union would be of no importance to this analysis as both countries (Ghana and Nigeria) would still have to import the product (A) from third country (China)
- one of the countries in the union (i.e Nigeria) must be a producer of the product inefficiently, i.e., the country is not the lowest – cost in the world, so that by the union partner abandoning the lowest – cost producer (China) and importing from another union partner (Ghana), a case of trade diversion would occur; and
- that both countries (engaging in the union produces the product with one of them better than the other in terms of costs so that the market is secured for the more efficient producer thus leading to Trade Creation

D. Assessment of Non-Tariff Barriers on Nigeria's Economic Integration with ECOWAS and AfCFTA

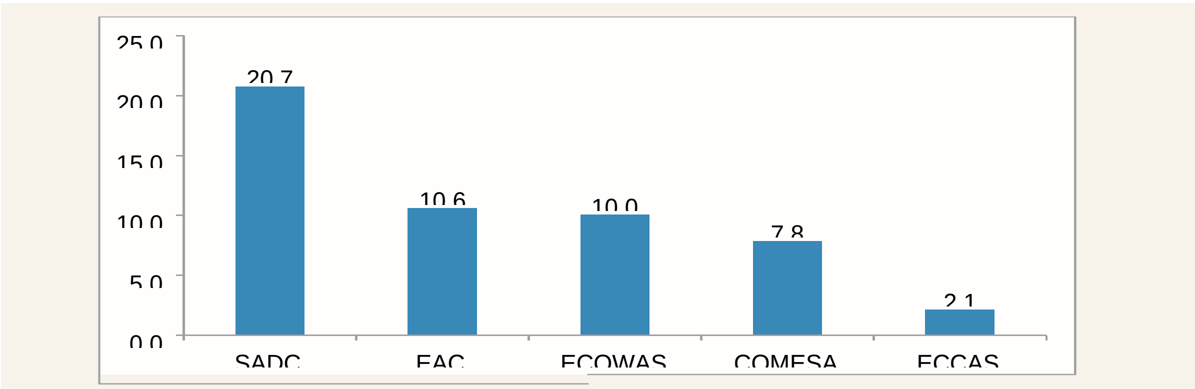
According to UNCTAD (2013) any barrier to international trade; whether it is tariffs and non-tariff barriers (NTBs) has impact on the global trade because it limits the functions of the free market. This is why free trade advocates of laissez-faire capitalism believe that governments should abstain from interfering in the workings of the free market; particularly with respect to trade. Countries do use NTBs in place of, or in conjunction with, conventional tariff barriers, which are taxes that an exporting country pays to an importing country for goods or services. First, a country can use licenses (an NTB) to limit imported goods to specific businesses. If a business is granted a trade license, it is permitted to import goods that would otherwise be restricted for trade in the country. Secondly, a country often issue quota (i.e., a specific limit for products and services allowed for importation to a country) for importing and exporting both goods and services. Thirdly is the use of embargoes; that is, officially banning the trade of specified goods and services with another country; possibly to support their specific political or economic objectives. A fourth type of NTB is the use of sanctions, by a country to limit their trade activity with another country; these included increased administrative actions–or additional customs and trade procedures–that slow or limit a country's ability to trade. In the sixth category is voluntary export restraints, where exporting an country set limits on the number of goods and services it can export to specified countries; possibly based on political alliance

1. ECOWAS Non-Tariff Barriers

Article 3 of the 1993 Revised Treaty of the Economic Community of West African States (ECOWAS) highlights one of the main objectives of the economic integration as creating a common market. That is why the ECOWAS Trade Liberalization Scheme (ETLS) was put in place since 1979 (which initially covered agricultural goods, livestock, unprocessed goods and artisan handcrafted products; but extended in 1990 to also include industrial goods). ETLS makes the community an FTA where enterprises of Member States may move goods within the ECOWAS bloc without paying duties and levies. However, for so long, the operational effectiveness of the scheme has been seen to only works on paper (thus a myth and not reality) with many bottlenecks known as non-tariff barriers (NBTs) such as: (i) agencies of Member States validating the processes at a national level do engage in unnecessary delay tactics; and (ii) businesses who are unable to wait for the completion of such validations end up making non-refundable payments of duties and levies as though the goods were imported from third countries; (iii) long delays in obtaining a Certificate of Origin (CoO) from the National Approval Committee (NAC) upon submission of an application; (iv) refusal by customs agencies of some Member States to honor even valid CoOs; and (v) where valid CoOs are honored, delays by the customs agencies of Member States in facilitating the clearance and transit of goods to the next border crossing. Because of these reasons, the expected supply chain benefits of ETLS are not well understood nor utilized for the interest of the community.

NTBs are defined as policy barriers or measures, other than ordinary customs tariffs, that can have an economic effect on international trade. They could either be traditional instruments of trade policy, such as quotas or price controls, or Sanitary and Phytosanitary (SPS) measures and Technical Barriers to Trade (TBT) that stem from important non-trade objectives related to health and environmental protection. These barriers or measures do have important restrictive and distorting effects on international trade. Eliminating them can contribute significantly to regional economic integration, as well as enhancing both national and regional competitiveness. Addressing NTBs is very important for ECOWAS which from its free trade area (FTA) towards the status of a customs union since 1st January 2015; with ECOWAS Common External Tariff (CET). Even before the customs union phase, the problems of NTBs as well as the coordinated implementation of "behind the border" SPS measures and TBT had persisted. According to UNCTAD (2015), intra-regional trade among ECOWAS countries accounted for 10.0% of the regional trade with the world (Figure 17).

Figure 17: Intraregional Trade in ECOWAS compare with some Selected RECs.

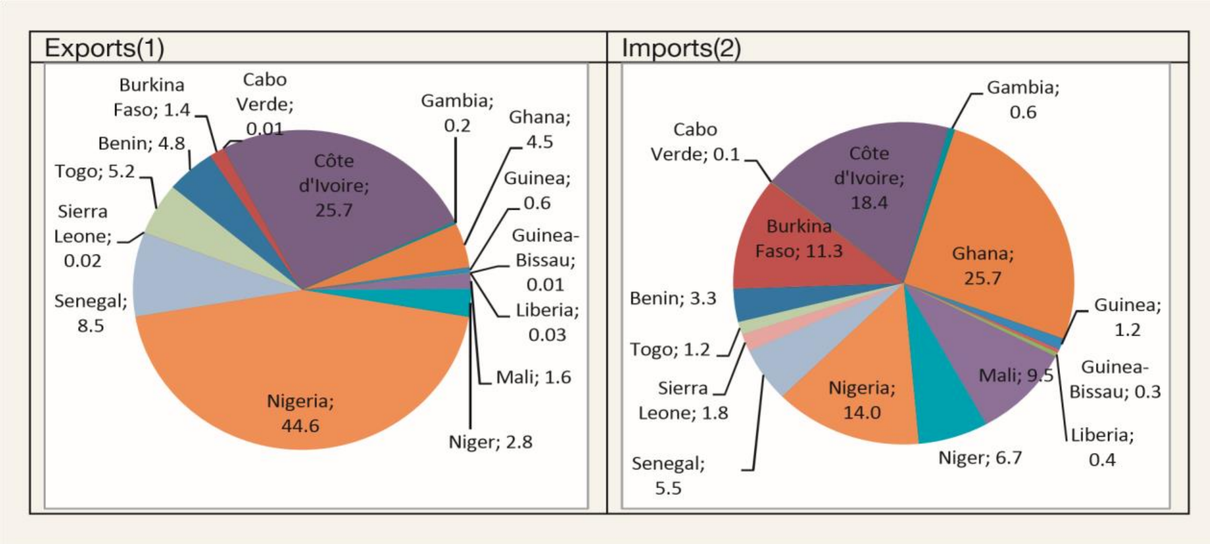


Source: UNCTADstat

And out of 15 ECOWAS Member States four countries (Nigeria, Côte d'Ivoire, Ghana and Senegal), accounted for 83.3 per cent and 63.6 per cent of intra-group exports and imports respectively (Figure 18).

The relatively lower level of intra-regional trade ECOWAS Region compared with SADC (20.7%) and EAC (10.6 %) is partly attributed to NTBs and the non-trade measures (NTMs) such as SPS and TBTs. However, while both the SPS and TBT measures cannot be eliminated, as they are crucial for sustainable development by protecting health, safety and the environment; their costs no ECOWAS Member States can be reduced through adoption of regional standards and regulatory convergence. With a standard set of technical market access requirements across ECOWAS Member States trade costs could be reduced and the size of the market that can be accessed increased. Similarly, through regulatory convergence trade costs can reduce as well.

Figure 18: Share of ECOWAS Members States in Intra-regional Trade (%)



Source: UNCTAD

(a) Factors Responsible for ECOWAS Non-tariff Barriers

(i) Ineffective Functioning of the Transportation

The bad condition of transport infrastructure across the region ranging from: (i) aging of the fleet of vehicles used for interstate transport, resulting in slow rotation and low productivity; (ii) non-implementation of multilateral agreements on road transport and transit including ISRT (i.e Interstate Transit of Road Transit Convention); (iii) the very complex formalities of Customs escorts causing delays, and sometimes the service is not rendered; (iv) excessive controls (roadblocks); Illicit monetary collection; (v) spreading out of border checkpoints; and (vi) non-acceptance of ECOWAS Certificates of Origin.

(ii) Standards and Other Technical Requirements

All raw and processed cereals, including maize, cassava, sorghum and millet, are not yet subject to an ECOWAS harmonized standard. In the absence of such standards, in line with intra-Community trade, a Member State may draw up national standards, or tempted to introduce standards leading to keeping an activity or sector for local companies. Either these standards are too restrictive, or they impose formalities such that potential exporters are discouraged in their desire to enter into this market. Conversely, in the absence of standards, especially for everyday consumer products, the health of populations may be jeopardized.

(iii) Differences in the interpretation of Community texts

Certain Community texts, because of their complexity or originality in relation to local laws and language barrier, may be misunderstood or subject to differing interpretations at Member State level. This is true of the rules of origin governing intra-Community trade, in particular for the application of certain origin criteria such as the change of tariff heading or the concept of products wholly obtained. For example, some Customs services refused to grant benefits related to Community origin on the grounds that the local authorities responsible for the authentication of originating products had misapplied the ECOWAS Protocol on Rules of Origin for Products and its implementation texts.

(iv) The non-implementation of the Conventions on IRST

The ISRT Convention, which deals with the technical standards and conditions to participate in interstate road transport of goods and sets out the routes to be followed. The non-implementation of these texts has led to multiple controls and illicit collection that hinder the competitiveness of road transport, increase costs and do not boost trade between States in the region. All of these barriers result in lengthy, prohibitive and unpredictable cost and time-consuming procedures for shipping and customs clearance and significantly reduce regional trade opportunities.

(v) Illicit Collection (abnormal practices)

Common among the raw and processed cereals such as maize, cassava, sorghum and millet, abnormal practices that hinder the free movement of persons and goods.

(vi) Non-compliance of Trucks

Convention A / P2 / 5/82 of 29 May 1982 regulating ISRT of the community defines the conditions under which road transport between States must be carried out among Members States, It applies to road transport of passengers and goods carried out between one or more specific points in the territories of the Member States by means of trucks or containers loaded on such vehicles and on well-defined inter-State roads. Its provisions stipulate, among other things, that means of transport must be up to standards and be approved. Unfortunately, most of the fleet of vehicles carrying cereals are aging and often does not meet the required specifications.

(vii) Non-harmonization of Working Hours at the Borders

The transport of some products is negatively impacted by the closing of borders between two (2) neighboring Member States where Customs and Immigration services do not have harmonized working hours. This situation is not likely to boost the free movement of goods advocated by the ECOWAS Community texts.

(viii) Problems with Forwarding Agents and Customs Declarants

Until now, formalities relating to the import, export and transit in the Member States are handled by forwarding agents and customs declarants. The drivers / traders in cereals therefore depend on these stakeholders.

(ix) Seasonal or Permanent Export Bans

Member States take measures to ban the export or import of products without prior information given to economic operators with negative impact on the activities of drivers / traders in cereals. Also, export or import application procedures, where restrictions or prohibitions have been previously imposed by a Member State, are not governed by regulatory texts. Under ECOWAS, restrictions or prohibitions and import or export measures are permitted by Article 41 of the Revised Treaty; only with notification and basis for such intention with the following conditions: (i) implementation of laws and regulations on safety; and (ii) protection of the health or life of persons, animals or plants and the protection of public morality. In fact, paragraph 4 of this Article states that "Member States shall not exercise the right to introduce or continue to maintain restrictions /bans to hinder the free movement of goods.

(x) Axle Load Issues

Supplementary Act A / SA.17 / 02/12 of 17 February 2012 of the ECOWAS defines the limitation of road vehicle size and axle load. Thus, the circulation of road vehicles on the road networks of ECOWAS Member States is authorized on the basis of a maximum axle load of 11.5 tons for single carrier axles. The implementation of the Supplementary Act is beneficial for the Community. Indeed, overloading of trucks impacts on road transport as it results in the degradation of the road network as well as dramatic consequences on road safety. This contributes to higher haulage costs and thus reduces trade; higher transportation costs reduce the competitiveness of West African exports and make imports into the region more expensive. Additionally, users often complain that different weights are recorded form one weighbridge to another when the same cargo is being transported.

(xi) Vehicles Returning Empty after Delivery of Goods

In a sector affected by low profitability, the optimization of carried loads is a major issue. Carrying of empty vehicle once the cargo has been off-loaded is the fear of vehicle owners. Indeed, the use of return journeys boosts the efficiency of logistics. But backhauling (using trucks on their empty return journey) is fraught with many obstacles, including the search for customers and adequate transportation costs.

(xii) ECOWAS Brown Card

The ECOWAS Brown Card (see Protocol A / Pl / 5/82 and Decision C/ Dec./ 2/5/83) was designed to allow carriers avoid purchasing dual motor insurance in each transit country. Moreover, in the event of a traffic accident in any Member State, drivers holding the ECOWAS Brown Card are entitled to all the guarantees prescribed by the texts and regulations governing compulsory motor insurance in that Member State. Unfortunately, drivers who hold the ECOWAS Brown Card often find it difficult to enjoy the protection due and their rights in case of claims and litigation for the payment of compensation due.

(b) Resolving Obstacles to Non-trade Barriers

(i) Joint Border Post and ECOWAS Customs Code

ECOWAS has put in place some measures to facilitate trade and transport across the ECOWAS region. These include: (i) operationalization of the existing Joint Border Posts (JBP) and building of new ones wherever necessary; (ii) simplification and harmonization of customs procedures relating the import, export and transit of goods: adoption of the ECOWAS Customs Code (see Supplementary Act A / SA.2 / 12/17 of 16 December 2017); (iii) interconnection of national Customs administration with IT systems to secure the entire chain of information and to have a centralized database accessible to all Member States (Single Window).

(ii) ECOWAS Trade Facilitation

The Task Force on the ECOWAS Trade Facilitation (ECOWAS/TF) for ETLS implementation could also be used to assist with the removal of tariff and non-tariff barriers. ECOWAS/TF was created by the Executive Regulation PC / REG 01/11/15 of 25 November 2015 by the President of the Commission, on instructions of the Heads of State and Government of ECOWAS. Its mandate is to encourage ECOWAS Member States to effectively implement the Protocols on the Free Movement of Persons and Goods in the Community Area, notably through arbitration and amicable settlement of disputes between Member States as well as advocacy and mediation with the highest political authorities of the Member States. For this purpose, electronic platform (E-platform) was set up by the Borderless Alliance to signal, monitor and resolve non-tariff barriers issues in the sub-region, with a view to contributing to the improvement of business environment. ECOWAS/TF also aims to improve the handling and management of stakeholder concerns and ensure transparency in the process of resolving each identified problem. It serves as a tool for facilitating trade and information dissemination, raising awareness and improving advocacy roles for policy makers, as well as trade and transport stakeholders.

(iii) Resolving Illicit Collections and Abnormal Practices

The abolition or reduction of the amounts of illicit collection, through long-term advocacy actions, should hopefully lead, in the long term, to the elimination of red tape that hinders the smoothness of intra-Community trade. The political commitment of the first leaders of the Member States is a condition for ensuring the sustainability of achievements in road governance and effective implementation of the various protocols governing trade and transport in West Africa.

(iv) Non-compliance of Road Vehicles

The governments of Member States should put in place incentives for the acquisition of new and suitable means of transport for the mode of transport involved. On the other hand, the ECOWAS Commission should adopt texts regulating the mode of transport of priority products, including their packaging, especially cereals. Introduction of Intermodal and Multimodal transportation system in ECOWAS ETLS is overdue

(v) Forwarding Agents and Customs Declarants Issues

The ECOWAS Commission should prepare and adopt a regulatory text determining the conditions for the approval and organization of the activities of Customs agent in Member States in order to guarantee the integrity, competence and professionalism of Customs agents. The monitoring of those practicing that job should contribute to the accuracy and clarification of the rights and duties of Customs agents both vis-à-vis the Customs Administration and with regard to users and customers.

(vi) Non-harmonization of Working Hours at the Borders

Harmonization of working hours at borders could be resolved in the framework of the implementation of the WTO Trade Facilitation Agreement and with bilateral agreements between neighboring member states of the Community.

(vii) Seasonal or Permanent Export Bans

The attention of the ECOWAS Commission should be drawn to the practices of its Member States with respect to the various restrictions or bans on import and export measures. In return, the ECOWAS Commission should remind them of the modalities of implementation of the provisions of Article 41 of the Revised Treaty. In the same vein, the Commission should instruct them to indicate the duration of the measure of seasonal restrictions or bans. Member States should also be invited to adopt a regulatory text to govern export or import procedures where restrictive or prohibitive measures have previously been taken by a Member State.

(viii) Axle Load Issues

The ECOWAS Commission, the Member States, the transport operators and actors, are to have a renewed and sustainable commitment to comply with community regulation, through the implementation of the ECOWAS Supplementary Act (UEMOA Regulation 14). The objective of the protocol is to ensure the development of transport infrastructure, a vital condition for the development of a competitive and harmoniously integrated regional economy into the global economy. There should be regular calibration of weighbridges by the required authority to ensure that the correct weights are reflected and the transported are not unduly penalized.

No doubt, the elimination of trade barriers, both tariff and non-tariff is at the core of ECOWAS economic integration. With removal of NTBs along with tariff, the regional economic integration would lead to trade creation, and consequently industrialization and sustainable development of the region. However, this would demand a strong political will, enhanced transparency, regional institutional and policy reforms, human and institutional capacity building and securing resources to support the reform process. Accordingly, both ECOWAS Commission and Member States must address the political process of negotiating such elimination as well as remedy a legal loophole on quantitative restrictions. NTBs in the form of quantitative restrictions in ECOWAS dramatically increase product prices by almost 50 per cent where they occur. Although, there is a general prohibition on quantitative restrictions provided by ECOWAS and WAEMU treaties on intracommunity trade, this prohibition has never been translated into Community Acts by both Commissions to ensure the implementation of this provision among the Member States. In addition, ECOWAS requires a functioning reporting mechanism to allow the private sector to raise problems and to detect NTBs that should no longer be permitted.

2. AfCFTA Non-Tariff Barriers

Like in ECOWAS region, AfCFTA seeks to progressively eliminate NTBs which play a significant role in hindering effective implementation of the intra-African trade. Available evidences, at 19% of total African exports, revealed that intra-African trade remains low; in contrast to 69% for intra-Europe trade (UNECA, 2018). However, the report says that AfCFTA is predicted to boost trade intra-Africa trade to 25% in the medium term. In addition, it is also expected that this value could double if NTBs are reduced in line with the agreement on the continental economic integration. Such NTBs include (i) regulatory and physical barriers such as poor road and rail links, (ii) excessive sanitary regulations (such as SPS and TBT), and (iii) corruption and civil unrest.

The Global Trade Analysis Project (GTAP) is a global network of researchers and policy makers conducting quantitative analysis of international trade and other policy issues. The GTAP Data Base has become the centerpiece of the Global Trade Analysis Project. It records the annual flows of goods and services for the entire world economy in the benchmark year(s). The Data Base relies on the valuable contributions of many individuals and organizations throughout the world. The Center for Global Trade Analysis, the home of GTAP, then brings these contributions together into one useable, globally consistent, database. The result is a fully documented, publicly available and regularly updated global database. The standard GTAP model is a Computable General Equilibrium (CGE) model with multiple regions and multiple sectors to model trade transactions. However, the limitations of using a GTAP/CGE model involve a reliance on some assumptions.

The GTAP (2019) was used to carry out the impact analysis of AfCFTA on three main regional economic communities (RECs) in Africa; comprising COMESA, ECOWAS, and CEMAC. Based on the level of the phase of economic integration of each REC, they share similar tariff rates internally, and often externally (in the case of a customs union like ECOWAS) Thus, it is easier to make generalizations across members of the same regional bloc given that tariffs will be reduced to a similar degree. The study discovered that NTBs are widespread in Africa, and play a significant role in hampering intra-continental trade. In particular, and in support of Abrego et al. (2019), TBT and SPS are the most prevalent types. Also, there were gaps in infrastructure and transportation costs which could hinder the efficiency of AfCFTA trade.

Unfortunately, all the RECs have done little to address these NTBs; possibly due to: (i) inability to reconcile the commitments of dual Member States, (ii) lack of transparency and access to information, and/or (iii) a lack of trust between African nations concerning the quality of imported goods. In addition, the ratio of exports and imports to GDP (dependence on trade) in COMESA, ECOWAS, and CEMAC is 62.7%, 55.8%, and 75% respectively. These numbers illustrate a large dependence on trade in all the RECs, meaning that AfCFTA has the potential to yield large-scale economic impacts; but the magnitude of intra- continental trade may not be as high as expected due to lack of complementarity in term of the tradables; and the prevalence of the NTBs.

Removing the NTBs would increase the value of imported goods and services while simultaneously reducing the bureaucratic costs, driving up demand for imports from one REC and another. Thus, making many African countries that formerly imported goods from foreign countries shift to importing such goods and services from other African countries. In addition, removing NTBs would decrease unnecessary costs and efficiency losses associated with previous transactions, and increasing the real production content of each unit exported; implying that fewer exports from Nigeria are needed to import a given quantity of goods from the rest of African countries. It is therefore expected that the overall welfare gains from a removal of NTBs (such border delays, bureaucratic regulations, among other consequences) may be much larger than welfare gains resulting from even a removal of 97% of tariffs. This is because NTBs play a larger role in hindering intra-African trade than tariffs.

E. Bilateral Trade Agreements of Nigeria

Bilateral by definition simply means -"involving two parties"-, therefore a bilateral trade agreement as the name suggests is a trade agreement between two parties or countries. The agreement is expected to create an environment that promotes commerce and trade between the countries involved by encouraging fairness where rules in business operations are mutually ascertained and observed. When countries enter into a bilateral trade agreement, their goal is usually to give each other favored trading status. They open access to each other's markets and this in turn is expected to increase trade and economic growth between them and as their business grows, new job opportunities are created.

Over the last decades, bilateral trade agreements (BTAs) have increased considerably in number and economic relevance. Notably, such agreements substantially affect global trade, since the reorganization of flows of goods and services has prominent impacts on the contracting parties' economies, but also on other parties that are (directly or indirectly) engaged in trade with these countries.

1. Nigeria's BTAs and Multilateral or Regional Trade Agreements

Importantly, the effectiveness of a BTA depends on the scope and extent of commitments agreed upon; since BTAs are very diverse in content and design, reflecting that they might have been negotiated to serve other, strategic (and possibly non-economic) purposes as well, e.g., underpinning politically motivated partnerships between countries, increasing bargaining power in trade negotiations with third countries or fostering liberal economic policy reforms at the domestic level. Therefore, identifying and assessing the relative importance of the various possible objectives that might drive the negotiations of a BTA between Nigeria and another country will prove difficult and is often a matter of interpretation of the final agreement. For instance, while the USA policy in a BTA with Nigeria under the Trade and Investment Framework Agreement (TIFA) could be focused on strengthening strategic alliances and rewarding the country for domestic economic reforms, China may aim may be on gaining economic and, indirectly, political influence on the country (Table 12).

Table 12: Differences Between BTAs and Multilateral/ Regional Trade Agreements

Type	Bilateral Trade	Multilateral/Regional Trade
Number of Countries Involved	2	3 or more
Negotiations	Direct	Indirect
Complexity	Simple	Complex
Trade Barriers	Fewer	More
Flexibility of Agreements	Greater	Less

However, for the regional trade agreement under an FTA or customs union, the WTO provides details on negotiated regional trade agreements under Article XXIV. The Article contains information on all agreements that have been either notified to the WTO or for which an early announcement has been made from 1948 to today. BTA is not part of the Article XXIV of WTO, but nothing stops contracting parties from embracing the provisions of the WTO; either in the pursuit of a custom union (in which they agree to pursue only common trade policies with external countries that do not belong to the BTA), or an FTA (that allows each party in the BTA to pursue their individual trade conditions with any third country). BTAs are not bound by the rules set by the WTO and do not solely focus on trade-related issues. Instead, their agreements usually target individual policy areas, aiming to increase cooperation and facilitate trade between countries in certain areas.

Depending on the scope agreed upon, Nigeria has bilateral investment agreements with about 31 countries including but not limited to; Morocco, Singapore, Russia, Kuwait, South Africa, Germany, France, etc. However, only 15 of these BTAs are in force. In the year 2000, Nigeria and the U.S.A. signed a Trade and Investment Framework Agreement (TIFA). A BTA agreement provides for dialogue on improving and strengthening trade and investment opportunities between the contacting parties (Nigeria and its bilateral partner).

2. Scope of Bilateral Agreements

In most Nigeria's BTAs there are provisions for each other access to their markets, that could lead to trade and economic growth. The agreements also create an environment that promotes fairness since a set of rules in business operations is observed. Essentially, the following five areas may be covered in Nigeria's BTAs:

- With the elimination of certain level of restrictions, and trade-related taxes, companies located in countries with a BTAs enjoy a price advantage, especially for nations that flourish in different industries.

- Countries involved in the BTAs will not offer products at a low cost only to gain a bigger share in the market; nor would they offer goods at prices that are even lower than production costs, then increase prices when they've overcome the competition.
- Contracting countries in the BTA will not use unfair subsidies; for instance, when countries subsidize energy or agriculture, producers will see lower costs, giving them an unfair advantage when they export the goods.
- Because of standardized business operations in the BTAs on issues such as labor standards and environmental protection, exporters across both countries operate in a level playing field.
- The agreements may equally involve preservation of contracting parties' intellectual property rights.

Since a BTA involves Nigeria and another country, entering into IT is: (i) much easier as compared to multilateral trade agreements; (ii) gives companies access to new markets; (iii) open more job opportunities; (iv) enable consumers to buy goods at lower prices, as some types of products may be more expensive without an agreement; (v) can lead to improved political relations between countries by fostering economic interdependence; (vi) lead to lower costs for goods and services for consumers by expanding the market and thus increasing the competition; (vii) can increase the number of options for producers and consumers and foster innovation by exposing companies to new ideas and technologies; and (viii) serve as a useful contingency plan if multilateral negotiations are unsuccessful or delayed in certain areas. However, just like in any other trade-related agreement, (i) less successful companies will likely find it hard to keep their business going as they will not be able to compete with more successful industries the other trading partner in the BTA; (ii) the elimination of trade taxes means companies lose their price advantage; and (iii) the bilateral agreement can result in competing agreements between other countries, where Nigeria even has an economic integration relationship with.

F. Implications of Regional Integrations at Multilateral Level for Nigeria

Ethier (1998) raises doubt about the future of Multilateral World under increasing levels of regional arrangements. For instance, with AfCFTA, regional trading arrangements is becoming an important segment for Nigeria in international trading arrangement. By increasing trade and investment, economic integration is creating potential opportunities to reap the gains from globalization due to: (i) expanded and unified market, (ii) diversify the economic base, and (iii) increase competitiveness of Nigerian economy into the global market. That is why the country is among African countries promoting regional (ECOWAS) continental (AEC-AfCFTA) economic and political blocs that range from free trade areas, to customs unions, to common market and finally to economic unions for the following reasons: (i) fostering continental unity and development, (ii) promoting peace and growth with neighbors, thus reducing the prospects of conflicts among members, (iii) facilitating and deepening the exchange of information among democratic neighbors, (iv) strengthening regional security through its stabilization effect, (v) mitigating the economic disadvantages of fragmentation and reducing the attendant constraints on growth and development, (vi) promoting industrial growth and creating synergy through exploiting the complementarity of the region's economies, (vii) raising income through innovation and growth, (viii) promoting growth through increased factor productivity, and (ix) creating trade and avoiding trade diversion.

1. Constraints Facing Nigeria at Regional and Multilateral Levels

Apart from, NTBs earlier discussed above, several other factors limit the size of Nigeria in the intra- and inter-African trade. First, is a lack of the structural complementarities necessary for trade creation. Second, Nigeria's restricted industrial base offers limited scope for economies of scale in production and marketing its goods into ECOWAS and the rest of Africa. Third, the country's poor and inadequate infrastructure limits trade and raises the cost of the little merchandise that is eventually traded. Fourth, the absence of compensatory mechanisms to cater for the revenue forgone in economic integration discourages the needed trade facilitation and liberalization reforms. Fifth, the existence of the multiple and overlapping regional trading arrangements, each with its own preferences have hindered rather than enhanced higher levels of trade. Sixth, the small size of the trading blocs in ECOWAS and across AfCFTA have severely limits economies of scale in many of these countries in partnership with Nigeria; and making imports from outside the regional bloc, most notably from Europe, to be preferred.

2. Initiatives for Integrating Nigeria into Regional and Multilateral Trade

Due to concern for the continued marginalization of Nigeria, and in fact African countries since the mid-l990s when WTO was established, several multilateral and bilateral initiatives have emerged. If these initiatives are appropriately exploited, they could enhance the economic growth of Nigeria and in fact the entire African region and contribute to reducing its gaping poverty. Among these are the following:

(a) Generalized System of Preferences (GSP)

The GSP, is a non-reciprocal and nondiscriminatory preference scheme beneficial to developing countries extended by developed countries. Page Sheila A. (2003), an exponent of the idea believed that the main objectives of granting trade preferences to developing countries are to: (a) enhance their export earnings; (b) promote industrialization, and (c) encourage the diversification of their economies. Its application is a unilateral option by each developed countries (e.g Lome I-IV and AGOA), and many of the developing countries could not utilize these benefits.

(b) Doha Development Agenda

Many developing countries believed that they never participated in the Uruguay Round negotiations, and unable to obtain greater market concessions from developed countries. The Doha Development Agenda (DDA) was adopted during the WTO/ MC IV, Doha in 2001, to solve such problems facing developing countries in multilateral trading environment. The remote cause of the DDA was the inability of WTO negotiations to answer to the demand of majority of its members, while immediate cause was the aftermath of the September 11th incidence of 2001 that sends a signal to the entire world that global injustice demands some attention. Bjornkor and Kin (2002) questioned what the outcome of Doha will be. An Analysis of While DDA negotiations were very optimistic and dynamic in agriculture, non-agricultural market access (NAMA), and services; however, since 2005, DDA has been under intensive care but not dead

(c) South-South Economic Integrations

UNCTAD and others suggested that one way to strengthen developing countries position is to encourage South-South economic integration among them. This will afford them effective voice on multilateral issues particularly in the areas such as: investment, competition and intellectual properties protocols, where they individually lack competence. In fact, as in AfCFTA, RECs could as well come together to enhance inter-trade and intra-trade among their members.

(d) Aid for Trade Initiative

Simply opening an economy to international trade is not enough, Nigeria, like other developing countries require additional assistance to help them build trade-related capacity. Since the DDA and the 3rd Ministerial Conference at Cancun, WTO realized the need to assist developing countries on trade capacity issues (WTO, 2005). At the WTO/MC 4, in Hong Kong, Member countries agreed to launch the Aid-for-Trade Initiative (WTO, 2006); as an integral part of regular official development assistance to developing countries in the areas of: (i) technical trade-related assistance - assistance to develop trade strategies, negotiation trade agreements etc.; (ii) trade related infrastructure- assistance in building infrastructure to connect to global economy; (iii) productive capacity building- trade development assistance to industries to build on their competitive advantages; and (iv) trade related adjustment assistance - assistance to developing countries with costs of tariff reductions etc.

(e) Using Regional Integration for Coalition Building

Increasingly, countries are getting together to form groups and alliances in the WTO. In many cases they even speak with one voice using a single spokesman or negotiating team at ECOWAS or at African Union levels. Strategic and united collective action, known as "coalition building" is equally very important today for trade sequencing and negotiations at all levels, particularly for developing countries. Both Kahler M and J.S. Odell (1989) however, said a major challenge of a coalition strategy remains the need for prospective countries forming it to agree on the content of the strategy they want to use. For instance, Nigeria and other developing countries, must identify its own individual strategic national developmental policies, priorities, and negotiating interests which could then serve as the basis for possible coalitions within ECOWAS or AU levels.

The increasing number of coalitions involving developing countries reflects the broader spread of bargaining power in the WTO. Coalition-building is partly the natural result of economic integration — more customs unions, free trade areas and common markets are being set up around the world. It is also seen as a means for smaller countries to increase their bargaining power in negotiations with their larger trading partners and to ensure that they are represented when consultations are held among smaller groups of members. Sometimes when groups of countries adopt common positions, consensus can be reached more easily. Sometimes the groups are specifically created to compromise and break a deadlock rather than to stick to a common position. But there are no hard and fast rules about the impact of groupings in the WTO.

The largest and most comprehensive coalition in the WTO is the EU and its Member States. The EU countries is a customs union with a single external trade policy and tariff. While the Member States coordinate their position in Brussels and Geneva, the European Commission (EC) alone speaks for the EU at almost all WTO meetings. The EU is a WTO Member in its own right as are each of its Member States. Nigeria, along with other ECOWAS Member States used the regional customs union position into AfCTA. African Union can use the AfCFTA coalition to enter into EPA with EU and the WTO.

With varying degree of complexities involved in each of the various negotiations analyzed above it makes sense to (a) introduce the least complex and least costly/high benefit elements first, while (b)leaving the more difficult, more costly and less benefit elements to later time. With Nigeria's Trade Policy that serves as a radar to other trade agreements now in place, the sequence of other trade agreements could be negotiated in this order: (i) ECOWAS CTP (with Nigeria's Trade Policy as the basis); (ii) the AfCFTA (with ECOWAS Position as a guide); (iii) the EPA with EU (with AU position as a guide); and (iv) WTO (in line with AU position). This sequence of engagement permits progressive harmonization of various trade agreements of the country with the regional and the multilateral levels, so as to avoid possible contradictions.

SECTION III: NIGERIA'S TAX AND CUSTOMS IN REGIONAL ECONOMIC INTEGRATION

Tax and customs revenues are critical to sustainable development of Nigeria since they are major sources for financing expenditures for development, poverty reduction and delivering public services, in addition to increasing state capacity, accountability, and responsiveness to their citizens. However, the country still faces some difficulties in raising tax revenue for public purposes, perhaps owing to low per capita incomes, an economic base in subsistence agriculture, poorly structured tax systems, and weak tax and customs administrations.

In spite of these problems, the country still engages in economic integration (such as ECOWAS and AfCFTA) because of its benefits, such as: (i) trade creation, (ii) greater economies of scale based on profitable competition, (iii) increased investment leading to increased employment opportunities and division of labor, and (iv) improved bargaining power. In addition, a regional integration like ECOWAS could (a) fosters specialization and learning by doing; (b) helps to attract foreign investments in the partner states; and (c) enables the achievement of non-economic objectives such as promoting regional security, facilitating immigration flows and solidifying domestic economic reforms in the partner states.

Much as the ECOWAS and AfCFTA economic integrations are expected to increase trade flow among African countries, the tax and customs revenue implications equally demand attention as they could have far-reaching implications on budgetary activities of the government of Nigeria. In other words, liberalization of tariffs and trade due to the economic integrations may come at a cost; thus, the country has to weigh between reduced trade revenues and increased trade volumes in the form of exports through trade liberalization.

By reducing the trade costs and increasing access to diversified products, both the ECOWAS and AfCFTA economic integrations are expected to improve the competitiveness of downstream industries in Nigeria, who can now access cheaper raw materials and intermediate inputs across member states; making such firms to gain from the consequence economies of scale in the long run. However, the implementation of the ECOWAS FTA (known as ECOWAS Trade Liberalization Scheme-ETLS) and its advancement to the next phase of economic integration (i.e Custom Union) may reduce the tax and customs revenues of Nigeria and that of the Member States since the pacts comes with the requirements of abolishing all tariffs on goods and services produced by Member States and charging a common external tariff (CET) on goods from non-member states. These requirements may negatively affect the tax and custom revenues of all the contracting parties in the region; thus, leading to a reduction in their total tax revenues.

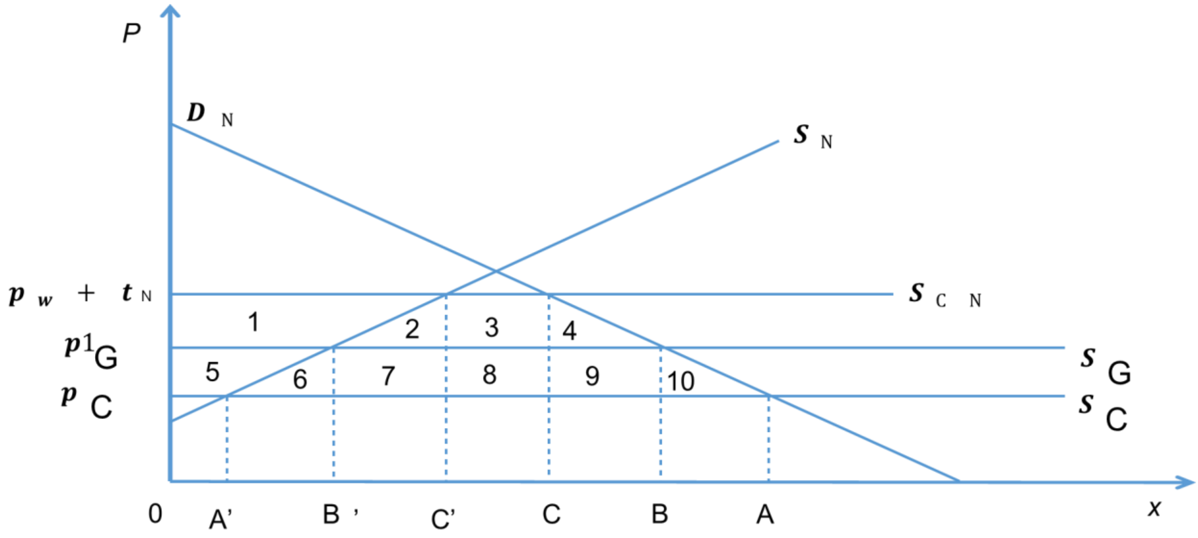
A. Analysis of Regional Tax and Customs on Nigeria

The question of whether economic integration improves or impedes the mobilization of taxes and customs revenue in Nigeria is not conclusive. The benefits from economic integration cannot be that of short run; but likely to be realized in the long run. This is because in the short to medium term, tariff liberalization, arising from economic integration, is expected to lead to a reduction in customs revenues for Nigeria. This is obvious since if a reduction in trade taxes is not compensated for by a rise in other taxes, especially domestic indirect taxes, then such trade liberalization would result in reliance on customs revenues that have reduced due to the economic integration. It is against this background that that this report attempts to analyze the revenue implications that may arise from, say, an FTA between Nigeria and Ghana; while China is the third country outside the economic integration. This analysis is vital because a country like Nigeria that rely on customs revenues may be uncertain of the revenue implications of her membership of both ECOWAS and AfCFTA. Hence, the findings of the analysis are intended to help Nigeria and other countries make informed decisions on both implications of ECOWAS the AfCFTA.

In the short to medium term, ECOWAS trade liberalization policy via the ETLS and customs union is expected to reduce customs revenue due to lower tariffs. On the other hand, when tariffs decline, imports will become cheaper and the volume of imports will expand; hence, the tax base will rise as well which can lead to more imports as well. Also, the lower tariffs due to liberalization may lead to a reduction in tariff evasion by lowering the marginal benefit to avoid taxation thereby encouraging more importers to declare their imports, hence an increase in import tax revenues Therefore, the impact of trade liberalization on trade revenues is not uni-directional; but rather bi-directional. In theory (Mario J. Crucini, J. Scott Davis,2013), the ultimate impact may depend on import price elasticity and type of imports. For instance, demand for capital goods are unresponsive to price changes, as you may not have to buy more in the short run due to lower price and the share of trade revenue in total revenue.

In the earlier explanation above, the three countries involved are: Nigeria (N), Ghana (G) and China (SC); see Figure 19

Figure 19: Initial Situation when Nigeria Imposed Tariff on the Goods from both Countries



Supply of domestic producers in Nigeria (e.g. for CD-players) increases with increase in market price (SN). Demand of consumers in Nigeria for CD-players increases with decrease in market price (DN). Supply of world market (China) is entirely price-elastic (horizontal supply curve SSC). Supply of other Member State, Ghana (G) is also entirely price-elastic (horizontal supply curve SG). Entrepreneurs in G produce less efficiently than entrepreneurs in China. Domestic price (pw+tn) even with import duty on Ghana is still lower than equilibrium price determined by domestic supply and demand in Nigeria.

1. Initial Situation when Nigeria Imposes Tariff on the Goods

From Figure 19, as Nigeria imposes import duty (tn) on imports from other Member State, Ghana (not show in the graph) as well as China; we have the following:

- Initial import price is pw + th
- Prior to creation of free trade area
- Domestic enterprises produce OC'
- Domestic households consume OC
- Difference CC' is imported from the China
- Tax revenue is (CC')*tN

2. With Free Trade Area Between Nigeria and Ghana

- Entrepreneurs from Ghana can export CD-players without tariff at price pl to Nigeria

- Production by domestic enterprises in Nigeria decreases from OC' to OB' by B'C' (production side trade creation)
- Consumption of domestic households increases from OC to OB by CB (consumption side trade creation)
- Imports from China are entirely replaced by imports from Ghana (C'C, trade diversion)

3. **Welfare Effects:**
- Producer surplus decreases by area 1
- Consumer surplus increases by area 1 + 2 + 3 + 4
- Tariff revenue decreases by area 3 + 8
- Total welfare effect is equal to (2 + 4 – 8) and can be positive or negative

4. Trade Diversion

Trade diversion occurs when lowest – cost import from outside the customs union (China) is replaced by a higher cost import from a union member (Ghana) as a result of the trade preference due to economic integration of Nigeria and Ghana. To this end, trade diversion, by itself, reduces welfare of the world as it shifts production from more efficient producer (China) outside the custom union or the FTA to less efficient producer inside the union (Ghana). It therefore worsens the international allocation of resources as it shifts production away from comparative advantage explanations in trade theory. The welfare of non-members (like China) can be expected to decline because their economic resources can only be utilized less efficiently than before trade was diverted from them. From the above example trade has been diverted from China in preference for a greater trade now created between Nigeria and Ghana.

5. Trade Creation

Trade creation takes place whenever the formation of an FTA or customs union between Nigeria and Ghana reduces high-cost domestic production in one of the member countries. This occurs when the formation of the union reduces the domestic price of the product (commodity A), and there are two ways in which a union can do that. First, the members (Nigeria and Ghana) can agree on a common external tariff lower than the previous national (or Nigerian) tariff imposed on commodity A, Secondly, the displacement of imports from the outside world (i.e., China) can reduce the world price of commodity A and thus depress the domestic price in Nigeria further. The second possibility, though interesting, involves an improvement is the union's terms of trade that leads to a redistribution of world welfare in favor of the union. The explanation may be more theoretical than practical. The first option, where the union agrees on a CET (like in ECOWAS) is usually common; and that is the option embraced here for further analysis.

The reduction in trade barriers stemming from the ECOWAS and AfCFTA would affect tax revenues of member-countries through four channels:

- First, following the phasedown of imports tariffs, a direct reduction in tax and revenue is anticipated due to reduced import tariffs.
- Secondly, on account of the lower tariffs, trade diversions would also reduce revenues.
- Thirdly, due to potential increase in production efficiency, a higher GDP would lead to increase income levels for individuals and entities resulting in more domestic tax revenue
- Fourth, after increasing imports and income, higher consumption would also raise tax revenues.

B. Economic Integration and Alternative Sources of Tax and Customs Revenue for Nigeria

As earlier discovered, because regional (or economic) integration could negatively impact the tax and customs revenue of State Parties, at least in the short run before trade creation is fully realized, there is need for alternative sources for tax revenue for Nigeria in the implementation of the ECOWAS and AfCFTA economic integrations. The remaining customs duties from countries outside the economic integrations that Nigeria is committed into, plus the domestic internal tax revenue growth may not be sufficient to compensate for the loss of revenue from the various FTAs. Hence, the need to design measures to offset the loss of tariff revenue associated with ECOWAS customs union and AfCFTA FTA. This calls for strengthening the ability to domestically mobilize revenue in Nigeria.

In the course of this study, the Presidential Fiscal Policy & Tax Reforms Committee was set up. The Chairman of the Committee, Tayo Oyedele (2023) said its assignment are to look for: (i) more revenue mobilization, both tax and non-tax, (ii) how to attain better quality of government spending, (iii) putting in place sustainable debt management, and (iv) identifying relevant measures to make Nigeria an attractive destination for investment and facilitate inclusive economic growth. The work of the committee is expected to be completed within one year divided into 3 milestones: (a) quick wins within 30 days focusing on urgent interventions to cushion the effect of current socio-economic challenges (b) critical reforms within 6 months including measures to address multiplicity of taxes, simplify the tax laws, ensure policy coordination, drive accountability and transparent reporting (c) implementation of structural revenue reform measures and critical fiscal policy changes. The Committee intends to put in place policies that will move the Nigeria average tax to GDP ratio from its present level to 18%; thus, filling up the current estimated tax gap of N20 trillion. In addition to the emerging policies to be put in place, the Committee will leverage on technology and tax intelligence to close the tax gap; as well as rationalize incentives and waivers, reduce the cost of collection, and optimize revenue from government assets and natural resources.

In addition to activities of the Committee, there is need to broaden the tax base by identifying other tax bases that may not be affected by the economic integrations and streamlining tax exemptions and incentives where they exist, with clear procedures, duration and a coordinating unit across the Nigeria and other ECOWAS Member States. Nigeria should consider improving the collection of revenue from alternative sources such as: (i) Value Added Tax (VAT), (ii) personal and company taxes as well as (iii) excise duty in order to cushion itself against the revenue loss impact of the ECOWAS Custom Union and CET. The Government could also consider widening the tax base by taxing the informal sector of Nigerian economy, which has been growing rapidly in the past years and should review its tax exemptions and remove unnecessary concessions. These positions could also be done at ECOWAS Community level across all States, if they are to offset the negative impact of ECOWAS regional integration on their tax revenue.

1. ECOWAS

Coincidentally again, in the course of this assignment, various harmonization of taxes was adopted by the Supplementary Act A/SA.3/7/23 on Mutual Administrative Assistance in Tax Matter between ECOWAS Member States. The harmonization (which contains 10 additional ECOWAS Ministerial Decisions) would make regional governments to redesign their tax system so as to fit appropriately into the regional integration agenda; and thus increase their tax revenue collections despite the negative influence of the regional integration on customs tax revenue. The ECOWAS governments can widen their tax bases by introducing new taxes to items or activities that are not hitherto in the tax net. They can also raise tax rates where appropriate so as to mobilize more tax revenue that can help in increasing tax revenues despite the negative influence of the ECOWAS and AfCFTA economic integrations. This is because all the ECOWAS countries are deemed to benefit more from the regional integration through increased volumes of trade due to increased size of market for its goods and services, increased industrialization, increased competition, and increased cross-border flow of factors of production across Member States; which of course will in turn leads to increased tax revenues for all the State Parties.

The ECOWAS Member States should endeavor to harmonize domestic taxes, tax laws and procedures, as adopted by the Heads of State and Government of the Community in line with the Directives of the Council Ministers in the Region. This would reduce possible distortions and smuggling as well as introducing some level of predictability in business transactions and harmonize capital threshold requirements. The government should equally have the political will to fully harmonize individual State Party's tax policies applied to non-partner states and expedite the process of standardization of customs formalities such as harmonizing the documentation and procedures of custom tax clearances across all the ECOWAS Member States. This will ease the process of doing business in the entire ECOWAS region, thereby encourage investments, leading to diversification of the tax bases and increasing the taxable capacity in the ECOWAS region; as well as leading to more tax revenue collections in the Community despite the regional integration.

ECOWAS Member States' governments should strive hard to ensure that they achieve high rates economic growth. This is because higher economic growth would lead to tax revenue of the ECOWAS Member States. This implies that an increase in Nigeria's economic growth would increase the national tax base due to many economic activities which are associated with such economic growth thus more tax revenue would be available for collection with increased economic growth. Such kind of growth can be achieved through (i) creating a favorable investment climate, and (ii) improved infrastructure such as ensuring cheap power supply, good roads, communication network which reduces on the cost of doing business hence encouraging more economic activities in the country. These will consequently create jobs to the people leading to increased tax revenue for collections as people's ability to pay taxes improves across the country. Also, increasing economic growth has increase on the income tax, value added tax as well as increases on exports; all of which lead to increase in the amount of tax revenue for collection.

There is also the need for the governments of ECOWAS Member States to maintain a stable macroeconomic environment through controlling inflation which could have negative impact on tax revenue in the region. This is because though inflation had no significant impact on tax revenue, it displayed a negative sign, and in addition, inflation has other indirect effects on tax revenue such as increasing the cost of production thus discouraging investments. Therefore, controlling inflation will attract investments in the region thus leading to the creation of employment opportunities which increases people's incomes and ability to pay taxes assessed on them. This of course would lead to higher tax revenue collections as country's taxable capacity is improved. In addition, macroeconomic stability encourages more economic activities in the country which increase on the taxable base of the country leading to high amount of tax revenue collections.

Other measures that Nigeria government should embark upon include the following: review tax incentive policies by eradicating non-beneficial incentives;

- re-negotiating some of the existing tax treaties with treaty shopping provisions that result in full exemption provisions for certain incomes and persons or that provide for lower withholding tax rates;
- identify the use of technology and big data analytics, through the digitization agenda as a step in the right direction which will provide uniform and harmonized data for analysis by the revenue authority to help to bring in more persons under the informal sector under the tax net.
- combat illicit financial flows (IFFs) by adopting blockchain to help track some of the illegal financial flows, tax evasion and illegal cross-border activities which have resulted in the continent losing close to US$90billion in the form of illicit financial flows,
- capacitate customs officials with requisite skills, such as proper interpretation and implementation of rules of origin and preference to reduce the risk of dumping, smuggling and trans-shipment.

2. AfCFTA

No doubt, he reduction or elimination of tariffs would be a source of concern in the implementation of AfCFTA since customs duties are the major source of revenue to most African countries. In many of these countries, customs tariffs contribute an average of 35% to the total revenue basket, making the fear of losing this source of revenue to be justified. Just like in the explanation above under ECOWAS, while the concern of loss of revenue from tariffs appears understandable, the long-term trade-off is said to be the broad-based consumption tax in the form of value-added tax and an expanded tax base emanating from trade creation from the implementation of the AfCFTA economic integration. However, Member States must provide appropriate institutional support to tax administrators, build their capacity and expertise in managing revenue collection.

According to IMF (2019), it is projected that African Member States of the AfCFTA may lose about 1% to 5% of their GDP due to the anticipated tariff reduction or elimination. In particular, the following countries: Liberia, Zimbabwe, Seychelles, Cote d'Ivoire, Ethiopia, Togo, Benin, Cape Verde, Ghana, Democratic Republic of Sao Tome and Principe, and Senegal; which have between 2% and 6 % of their GDP emanating from customs and other duties, may have to forego them. Just like as suggested for ECOWAS countries in its regional economic integration, State Parties under AfCFTA would need to step up efforts towards effective collection of consumption taxes in value added and income tax as replacement to the revenue lost by reducing or eliminating tariffs. Perhaps, the first point of call is the formalization of the large informal business sector and low level of registered taxpayers currently out of the tax nets in Member States. To enforce VAT or income requires that taxpayers are known to fiscal authorities through registration; but if there are low levels of registration, there will be low levels of tax collection.

Therefore, AfCFTA Secretariats at national regional (RECs level), and continental should provide technical assistance and capacity building to tax authorities of African Member States in trade and trade-related issues for implementing the AfCFTA. While the Secretariats may not be able to impose or enforce the application of policies that have a bearing on any Member State's fiscal system; these Secretariats could work towards fiscal harmonization across Member States. The Secretariats, being at the forefront of providing technical assistance and capacity building are most positioned to play a key role in developing harmonized taxation rules for African Member States. They are equally positioned to propose enforceable standards of effective tax administrations and programmes that should be undertaken to ensure that domestic tax policies are implemented effectively across State Parties in AfCFTA.

SECTION IV: STAKEHOLDER PERCEPTION ON ECONOMIC INTEGRATION OF AFCFTA IN NIGERIA

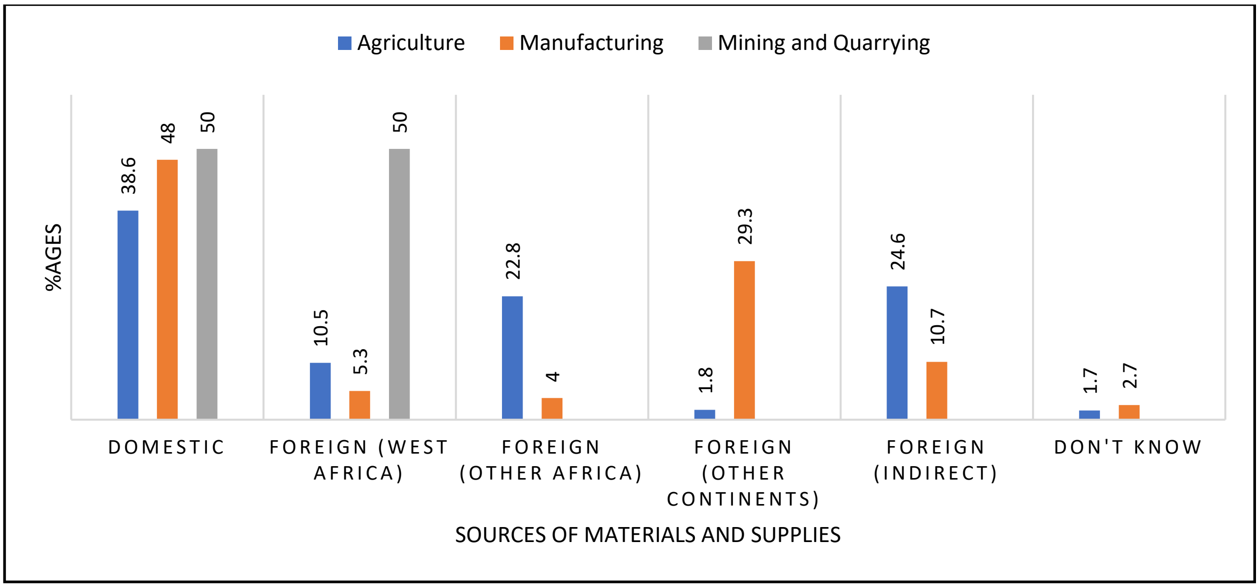
The UNECA (2022) study provided a basis to understand the several aspects of the impact of economic integration on the private sector. The private sector provided information on their export and import operations, awareness of the AfCFTA, gauging MSMEs Competitive Capacity and Capacity to meet Process Requirements of the AfCFTA.

A. Export and Import of Goods

> *Materials and supplies by businesses and firms are mostly sourced domestically. However, 50% of the firms in the mining and quarrying sector sourced their materials and supplies from foreign West African countries*

The likelihood of Nigerian businesses trading in Africa can be interpreted from responses on export and import operations**.** Responses were elicited on the sources of materials and supplies, the main market for sales, and bilateral and multilateral FTAs for export and import activities. Materials and supplies by these businesses and firms are mostly sourced domestically, as 38% of the respondent firms in the agricultural sector, 48% and 50% % of the manufacturing, and mining and quarrying firms respectively sourced for materials and supplies domestically. More so, the respondents think that the remaining 50% of the firms in the mining and quarrying sector sourced their materials and supplies from foreign West African countries. Other firms in the agricultural sector are said to source their materials and supplies in foreign West Africa (10%), foreign other African countries (23%), foreign origins that they are not directly involved in (24.6 %) and some others (to the tune of 2%) opined to be unaware of the sources of the materials and supplies (see Figure 20).

Figure 20: Sources of Materials and Supplies



On the other hand, the main market for sales for Nigerian businesses and firms is local; accounting for 48% in the agricultural sector, 54% of the manufacturing sector, and 75% of the mining and quarrying sector. These firms and businesses also sell their produce at national venues as 27% of firms in agriculture, 32% of firms in manufacturing and 25% of firms in the mining and quarrying sectors affirm this. *Sales in other African countries and other continents altogether account for a paltry %age of sales for businesses and firms in these three main sectors in Nigeria*. Precisely, this accounts for 9% and 15% for agriculture, 6% and 7% for the manufacturing sector respectively and nil for the mining and quarrying respectively (see Table 13).

Understandably, however, a vast majority of these firms think they face serious restrictions and prohibitions in plying their trades in other African countries. This is the major reason that sales have been hugely restricted to local and national outlets. This suggests that it is not valid to state that there are no available markets for the produce of these firms overseas; especially within the neighboring African countries. Restrictions and prohibitions faced include import duty, special duties, tariff rate quota, import prohibitions, import license; among others. As such, a national action plan that will re-orientates all stakeholders will be well suited to circumvent some of these prohibitions.

Table 13: Main Market for Sales

	Agriculture		**Manufacturing**		**Mining and Quarrying**	
Main Market for Sales	Frequency	%	Frequency	%	Frequency	%
Local	65	48.5	46	54.1	3	75
National	37	27.6	28	32.9	1	25
Other African countries	12	9.0	5	5.9	-	-
Other Continents	20	14.9	6	7.1	-	-
Total	134	100	85	100	4	100

Source: Field Survey (2022)

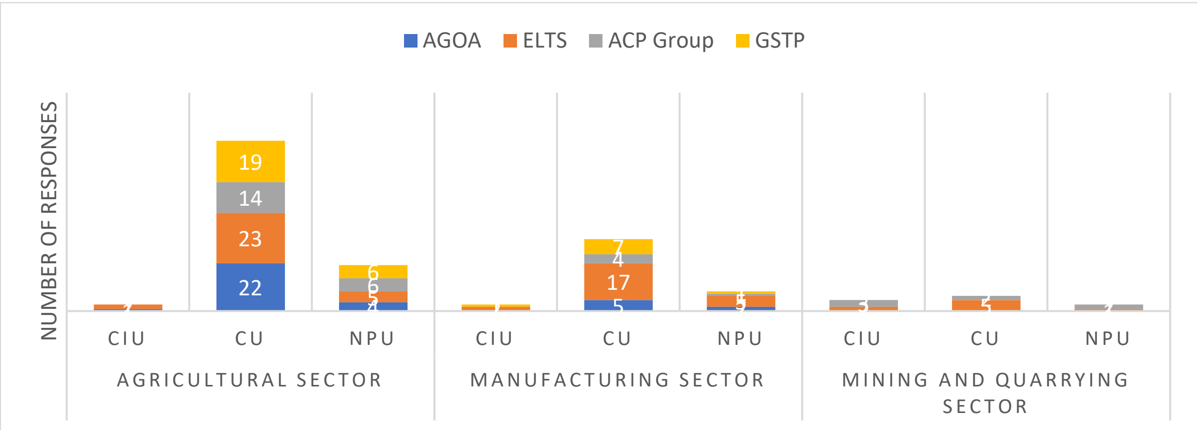
Some firms and businesses do not plan to adopt the existing free trade agreements (FTAs) entered into by the country with other countries within the African sub-region and outside of the continent. This may show a lack of awareness of these FTAs. Responses were elicited to ascertain the FTAs currently in use (CIU), considering using (CU) and those not planning to use (NPU). The FTAs are the African Growth and Opportunity Act (AGOA), ECOWAS Trade Liberalization Scheme (ELTS), African, Caribbean and Pacific Group of States (ACP Group) and the Global System of Trade Preferences among Developing Countries (GSTP). These were considered for both importing (see Figure 21) and exporting (see Figure 22) activities respectively.

As depicted in Figure 21, most of the businesses in the three major sectors of the economy are only considering using subsisting trade agreements. Of these trade agreements, the ECOWAS Trade Liberalization Scheme (ELTS) enjoyed the most patronage by these businesses and firms in their exporting activities as 23 (out of the 78 respondents). Correspondingly, 17 out of the 23 responses elicited in the manufacturing sector opines that they are considering using the ELTS while 5 out of the 7 respondent firms in the mining and quarrying sector also opines to use the ELTS agreement. Altogether, the number of respondent firms that have the various trade agreements currently in use are negligible across all the

The utilization or uptake of trade agreement is still limited especially for export. Of all trade agreements, the ELTS enjoyed the most patronage by businesses and firms in their exporting activities. Challenges of other FTAs include constrained rules of origin, high cost of checking and certificate, complicated procedure for certificates, varying FTA regulations and information asymmetry about FTA procedures three sectors. More so, more respondent firms even prefer not to put into use any of these trade agreements. This is even rife in the agricultural sector and closely followed by the manufacturing sector. The implication, therefore, is that the national action plan must consider how to counteract the trust issues of businesses and firms in Nigeria. More so, more information should be provided such that the merits of adopting the various trade agreements that Nigeria has entered into with other countries of the world; especially at regional and continental levels; would be highly emphasized.

Besides, the African Growth and Opportunity Act (AGOA) and the Global System of Trade Preferences among Developing Countries (GSTP) are other FTAs that these Nigerian firms have employed during their exporting activities. However, the AGOA and GSTP agreement are sparsely not currently in use (CIU) nor are they been considered (NP) for use in the near future. Altogether, these firms encountered a whole lot of challenges during their exporting activities. These challenges include constrained rules of origin, high cost of checking and certificate, complicated procedure for certificates, varying FTA regulations and information asymmetry about FTA procedures. The implication from this is that much more needs to be done to provide the necessary information for the use of these free trade agreements and a national plan action should be activated to remove the restrictions that would hinder their effective use for exporting activities.

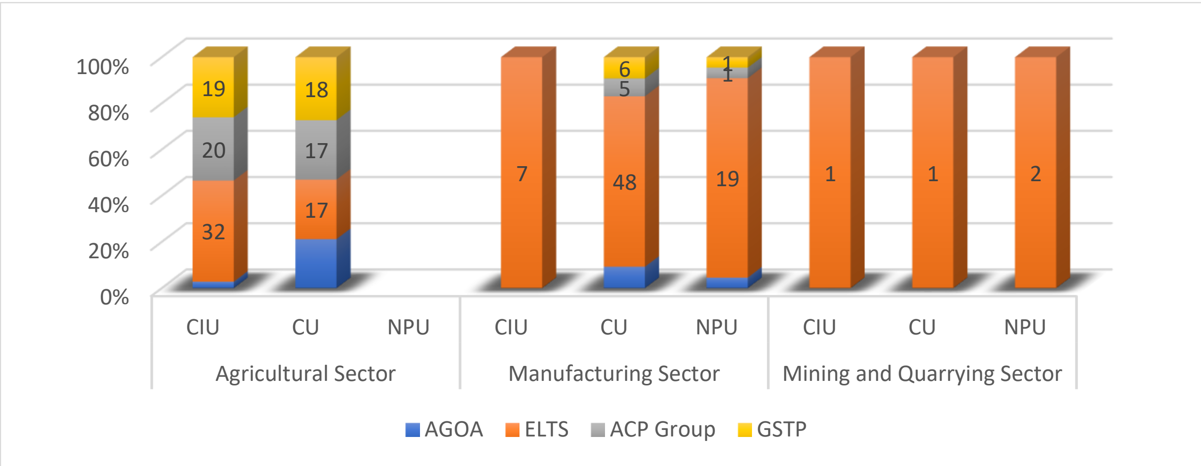
Figure 21: Bilateral and Multilateral Free Trade Agreements (FTAs) for Export Activities



Source: Field Survey (2022)

On the other hand, the *Nigerian firms appear to widely apply the available free trade agreements in their importing activities as compared to their exporting activities*. Although, the ELTS is still the mostly exercised FTA but other FTAs such as the AGOA, ACP Group and the GSTP have their fair shares of applications by the Nigerian firms. Some firms in the agricultural sector are not planning to use all of these FTAs, some firms in the mining and quarrying sector do not plan to use ELTS and ACP Group while some firms in the manufacturing sector do not plan to use ELTS (see Figure 22). Similar to the exporting activities, these firms encountered a whole lot of challenges during their importing activities. These challenges include low custom tariff, constrained rules of origin, high cost of checking and certificate, complicated procedure for certificates, varying FTA regulations and information asymmetry about FTA procedures. These distributions are pointer to the fact that the Nigerian government has to be intentional about devising conscious and deliberate national policies that will ensure the benefits and opportunities afforded by the African continental free trade agreements are fully explored, and exploited, towards sustainable growth of the economy within the African continent as a whole.

Figure 22: Bilateral and Multilateral Free Trade Agreements (FTAs) for Import Activities



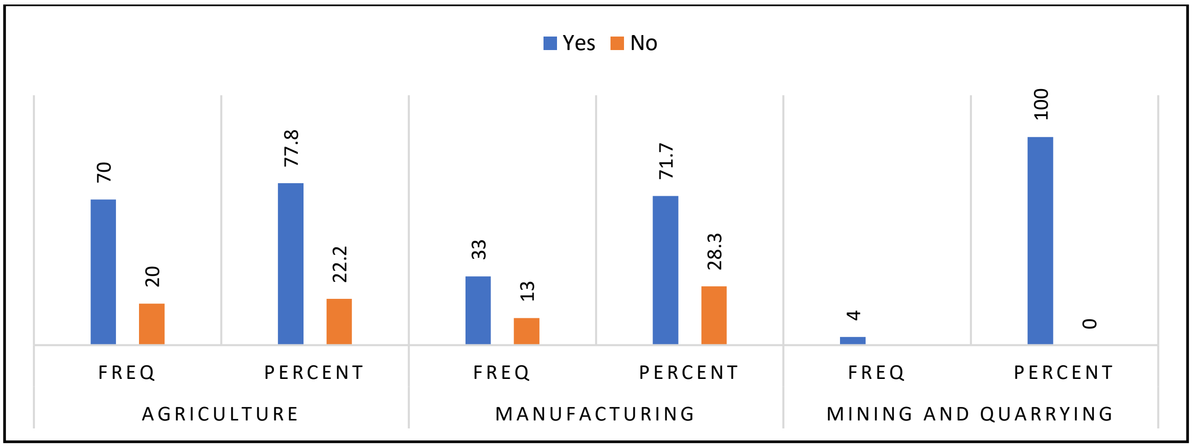
Source: Field Survey (2021)

1. Awareness and Perception about AfCFTA

Regarding the awareness and perception about AfCFTA, certain questions bordering on the knowledge, perceived effects, threats and potential opportunities of AfCFTA were elicited from the respondent firms' owners. These responses were analysed and necessary informed insights were obtained. Intuitively enough, a vast majority of these firms are aware of the AfCFTA signed in 2019. The responses elicited from the respondents show that 78% % of the respondents in the agricultural sector, 72% in the manufacturing sector and the entire 100% of the respondent firms in the mining and quarrying sector are aware of the AfCFTA signed in 2019 (Figure 23). As these firms are aware of Nigeria's signatory to the

Quite a number of firms are aware of the AfCFTA. In the agricultural sector, 72% in the manufacturing sector and the entire 100% of the respondent firms in the mining and quarrying sector are aware of the AfCFTA signed in 2019 continental trade agreement, it is obvious that expectations are high on the need for a national roadmap that would provide the directions for all players in various sectors of the economy; including those in the agriculture, manufacturing and mining and quarrying sectors.

Figure 23: Knowledge of AfCFTA Signed in 2019

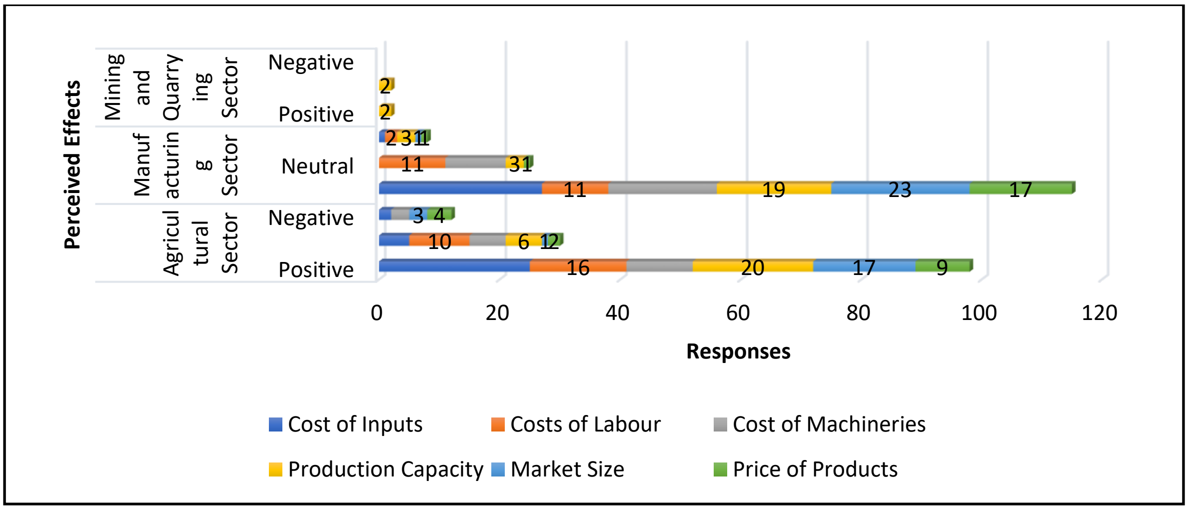


Source: Field Survey (2021)

2. The Effect of AfCFTA on Business

The knowledge of Nigeria's signatory to the AfCFTA, notwithstanding, business owners in Nigeria have mixed feelings as their perceptions, regarding the effects of the AfCFTA on the entire business environment in the three major sectors in the economy, vary. The effect on cost of inputs, cost of labour, cost of machineries, production capacity, market size and prices of products are mixed across positive, neutral and negative effects (Figure 24). The implications is that much re-orientation have to be done to properly enlighten the stakeholders on what prospect the AfCFTA holds for the entire business climate in the country. More so, deliberate government efforts and policy directions would have to be provided in order to harness the benefits, potentials and opportunities of the trade agreement. These suggestions are without prejudice to the fact that the respondent firm owners are of the opinion that the African Continental Free Trade Agreement (AfCFTA) will have positive effects on all the components of business and economic transactions across the continent. These are more prominent for the agricultural and manufacturing sectors. In all, most of the respondent firms do not share the opinion that AfCFTA will negative affects their businesses (see Figure 24).

Figure 24: Perceived Effects of AfCFTA on Businesses



Source: Field Survey (2021)

3. The Threats of AfCFTA to MSMEs

In terms of potential benefits and perceived threats that would confront businesses when the dictates of the AfCFTA are completely implemented in the country, responses were elicited from the respondent firm owners. As tabulated in Table 14, three major threats are prominent in the agricultural sector. These are cheaper goods in competition with local produce (38%), neglect of other important factors (28%) and increase in foreign competition (17%). Similarly, these three factors have potential threats to the manufacturing sector accounting for corresponding 31%, 25% and 15% respectively while the first two threats are the major potential threats to the mining and quarrying sector accounting for 75% and 25% %ages respectively.

Table 14: Threats of African Continental Free Trade Agreements to MSMEs in Nigeria

	Agriculture		**Manufacturing**		**Mining and Quarrying**	
Threats of AfCFTA to MSMEs in Nigeria	Frequency	%	Frequency	%	Frequency	%
Cheaper goods in competition with local produce	45	38.5	26	31.7	3	75
Neglect of other important factors	28	23.9	21	25.6	1	25

Increase foreign competition	20	17.1	13	15.9	-	-
Reduce the demand for local goods	10	8.6	11	13.4	-	-
Promote sub-standard products and dumping	14	11.9	11	13.4	-	-
Total	117	100.0	82	100.0	4	100.0

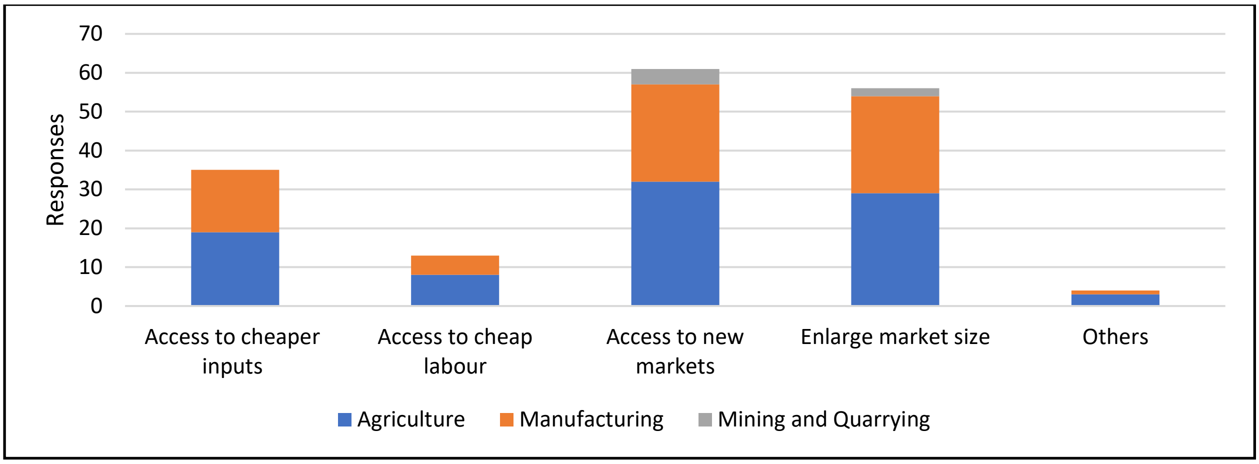
Source: Field Survey (2021)

The potential threat of reduced demand of locally made goods and promotion of sub-standard products and promotion of dumping are also relatively rife; especially for the manufacturing sector; each accounting for 13.4 %age respectively but 8.6 and 11.9 %ages for the respondent firms in the agricultural sector respectively. Many of the respondents are uncertain of what should be done from the part of the MSMEs to mitigate the potential threats facing them on the attendant consequences of the AfCFTA implementations.

4. AfCFTA Opportunities

In terms of the potential opportunities of the AfCFTA to MSMEs in Nigeria, however, the pattern depicted in Figure 25 is very instructive. All the firm owners in the three major sectors are optimistic that the implementation of the AfCFTA would provide valuable opportunities to MSMEs in Nigeria. Specifically, the respondent firm owners in the three major sectors are of the opinion that, once AfCFTA has been implemented in Nigeria, there would be more access to new markets and, obviously, there would be enlarged market size too. The respondent firm owners in both the agricultural and manufacturing sectors share the view that the AfCFTA would provide access to cheaper inputs and cheap labour too. However, only those in the agricultural and manufacturing sectors further opine that much more opportunities lie ahead of the MSMEs on the attendant implementation of the AfCFTA in Nigeria.

Figure 25: Major Opportunities of AfCFTA to MSMEs in Nigeria

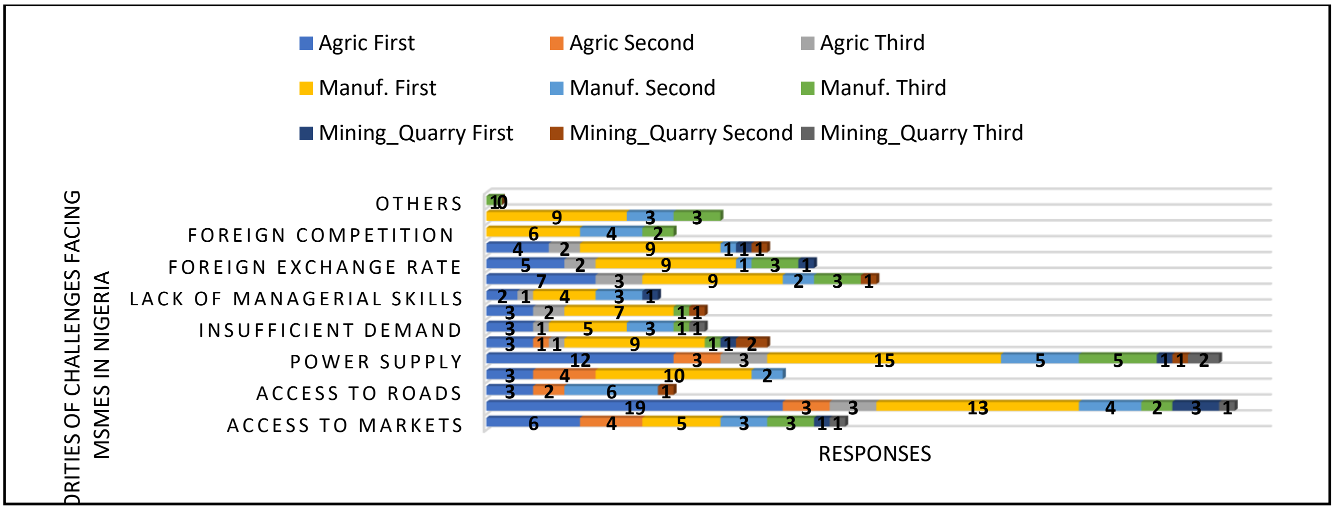


Source: Field Survey (2022)

5. Challenges Faced by SMEs

In contrast to the prospecting opportunities of the MSMEs in Nigeria, the challenges facing MSMEs in the country, as suggested by the respondent firm owners, are in the priority order of power supply and access to credit. These respondents ascribed the same priority to the challenges of high cost of raw materials, foreign exchange rate, taxes and tariff. This is mostly for those firm owners in the manufacturing sector. Other challenges facing the manufacturing sector are poor regulatory environment, policy inconsistency, insecurity, corruption and foreign competition. Access to credit is the most potent challenge facing the agricultural sector. This is followed by the problem of power supply. The mining and quarrying sector does not really have issues with most of these challenges but the lack of power supply still tops its priority challenges (see Figure 26).

Figure 26: Challenges faced bey MSMEs in Nigeria

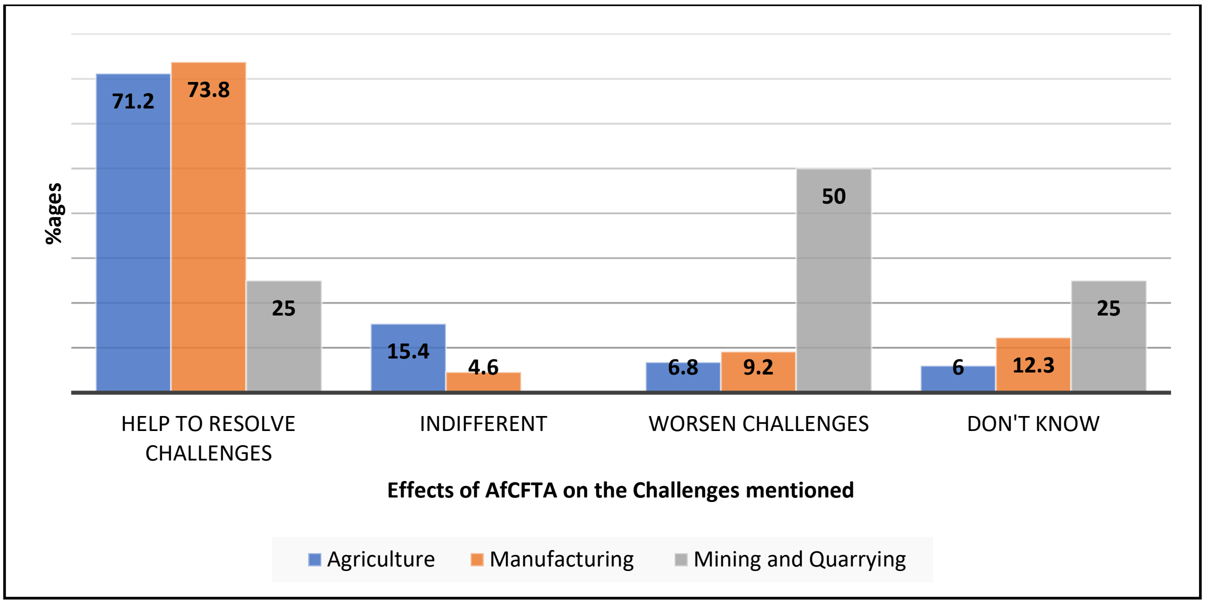


Source: Field Survey (2021)

6. Effects of AfCFTA on the Challenges

The respondent firm owners in the mining and quarrying sector are skeptical about how the AfCFTA will ameliorate the perceived challenges faced by the firms in that sector. Only 25 % of these respondents firm owners opined that the implementation of the AfCFTA would help to reduce the challenges identified in the foreign sub-section (see Figure 27). 50 % of these respondents are of the view that AfCFTA would further worsen these challenges while the remaining 25 % of the respondents are not aware of the effects that the implementation of the AfCFTA would have in reducing the effects of the challenges been faced in the mining and quarrying sector. In contrast, the respondent firm owners in the agriculture and manufacturing sectors are optimistic to the tune of 71.2 and 73.8 %ages respectively that the implementation of the AfCFTA would help reduce the challenges been faced in the two sectors of the economy. The proportion of the firm owners that are indifferent about the effects of the AfCFTA to reducing the challenges in these two firms are 15.4 % and 4.6 % respectively. Also, some of these firm owners in the agriculture and manufacturing sectors, to the tune of 6.8 % and 9.2 % respectively, are skeptical and envisaged that the effects will worsen the challenges been faced in these two sectors.

Figure 27: Effects of AfCFTA on the Challenges mentioned



Source: Field Survey (2021)

7. Gauging MSMEs Competitive Capacity and Capacity to meet Process Requirements of the AfCFTA

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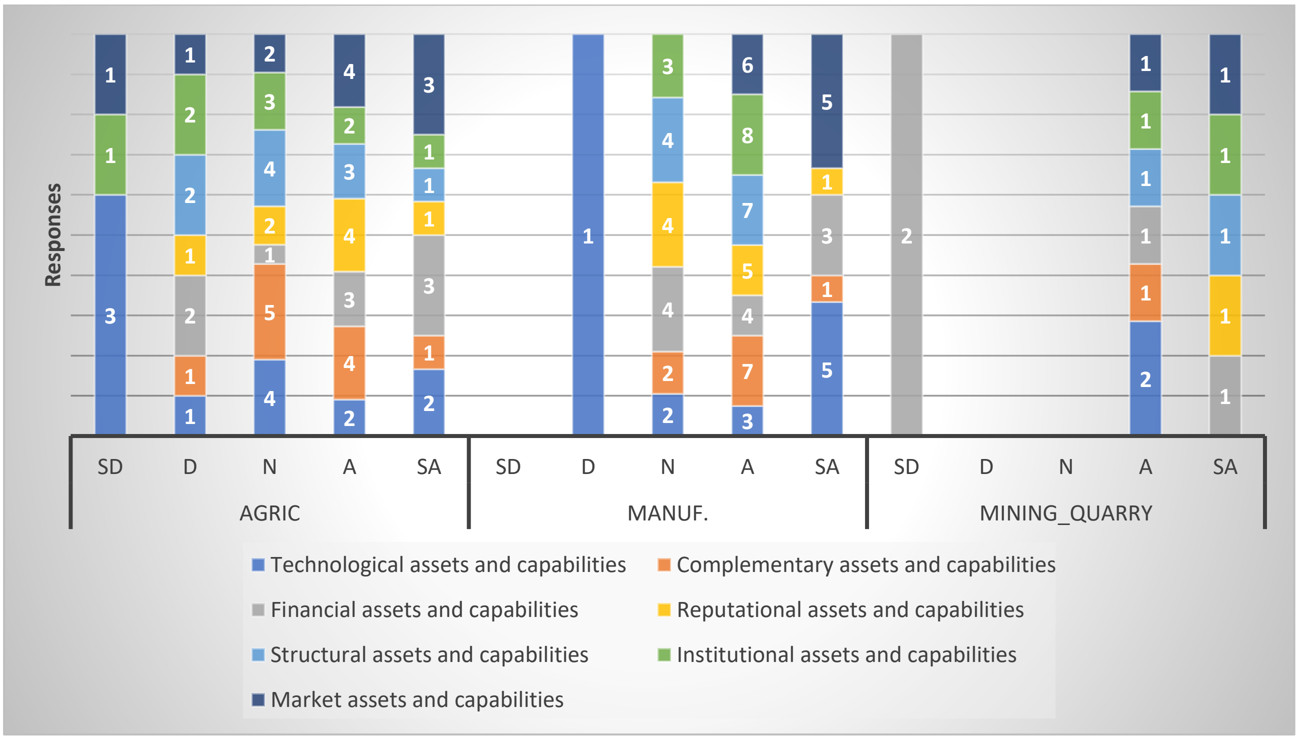
Furthermore, responses are also needed to gauge the competitive capacity to meet the process requirements of the AfCFTA. The five-Likert scale is adopted and the scales are Strongly Disagree (SD), Disagree (D),Neutral (N), Agree (A) and Strongly Agree (SA). Figure 28 depicted below indicates that most of the respondent firm owners are of the opinion that they have the capacity to reduce costs and remain competitive in the industry. The responses elicited show that the firm owners in the agricultural, manufacturing and mining and quarrying sectors substantially agree (A) and strongly agreed (SA) that have a combination of the technological, financial, structural, market, complementary, reputational and institutional capabilities to reduce costs and remain competitive. As some of these respondent firm owners decided to be neutral, this suggests that these firm owners are not sure enough to the level of capabilities of their firms in muzzling these capabilities to reduce costs and remain competitive in the industries. Those in the mining and quarrying sector are more precise as none of them are neutral to these capabilities' requirements.

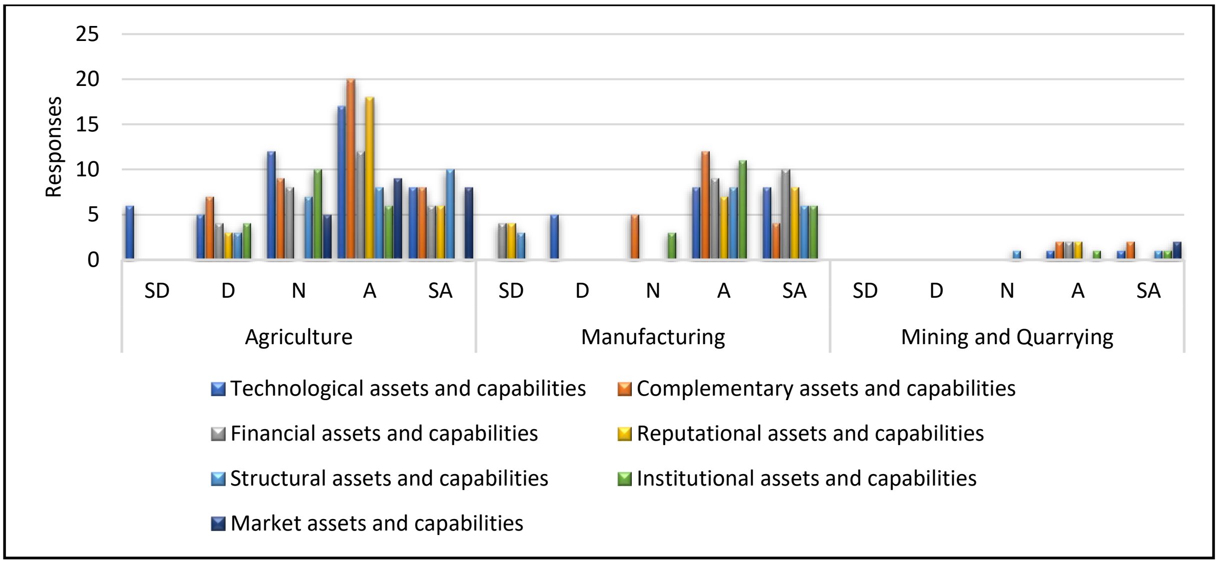
Figure 28: Firms Capacity to Reduce Costs and aid Competitions



Source: Field Survey (2022)

The same patterns of optimistic responses are also observed as regards the capabilities to fully benefit from all market opportunities. As depicted in Figure 29, most of the respondent firm owners are positive that they possess the needed assets/resources and/or capabilities needed to exploit the market opportunities. While these capabilities can be perceived to be fairly distributed, they are more confident about the complementary assets and capabilities, structural assets and reputational assets/capabilities.

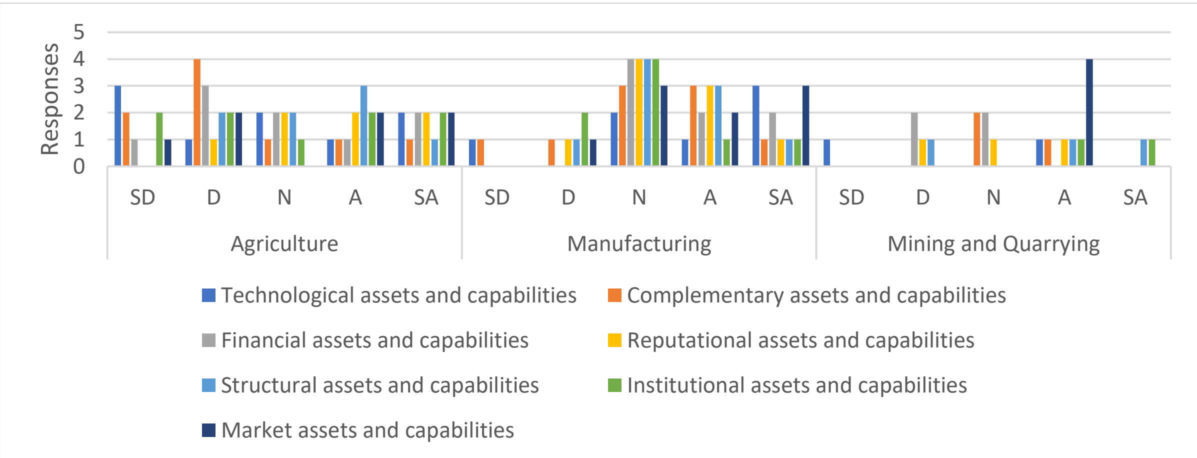
Figure 29: Firms Resources and Capabilities to fully benefit from Market Opportunities



Source: Field Survey (2021)

Those firm owners in the manufacturing sector preferred to neutral as regards their capabilities to be able to manage potential competitive threats occasioned by Nigeria's signatory to the continental trade agreement. A fair number of the respondent firm owners in the agricultural sector also share this perception to be neutral. A less than encouraging respondent firm owners answers in the affirmative. This implies that the firm owners are skeptical about the debilitating effects of AfCFTA (Figure 30).

Figure 30: Firms Resources and Capabilities to defend against all Competitive Threats



Source: Field Survey (2021)

Consequent upon these skepticisms, the respondent firm owners have a handful of suggestions for the government on the implementation of AfCFTA in general and specifically to their businesses. For the former, they advise that the government should have sincerity of purpose, provide infrastructural facilities, improve security and finance aids, remove double or multiple taxes, provide raw material capacity development and allows for involvement and participation of all stakeholders. Specifically to their businesses, these firm owners further suggests the need for reduced custom charges and duties, resuscitation of steel rolling mills, ease and reduced cost of production, standardization and documentation, banning of importation of locally made products, effective duty draw back on export and reduced corruption and corrupt tendencies of custom officials.

8. Operating Issues Affecting Supply of Goods

It is not out of place to note that the above suggestions and advice provided by these firm owners towards their businesses and generally for all stakeholders are borne out of the various operating issues they faced in supplying their goods to actual and potential customers. This section of the analyses focuses on this. The responses detailed in Table 15 below show that 67.8 % of the respondent firm owners in the agricultural sector opine that it is either very difficult or fairly difficult to import goods. The corresponding proportion of those firm owners in the manufacturing sector that share this opinion is 65.2 % while those in the mining and quarrying sector is 75%. Only 32%, 17%, and 25% of the respondent firm owners in the agriculture, manufacturing and mining, and quarrying sectors respectively are of the opinion that it is fairly easy to import goods while only 17% of those firm owners in the manufacturing sector share the opinion that it is very easy to import goods. While these opinions might largely be affected by the nature of imported goods, firm owners in all the three major sectors are of the opinion that importation of goods is a pretty difficult task.

Table 15: How easy is it to Import Goods?

	Agriculture		**Manufacturing**		**Mining and Quarrying**	
	Frequency	%	Frequency	%	Frequency	%
Very difficult	38	42.2	15	32.6	1	25
Fairly difficult	23	25.6	15	32.6	2	50
Fairly Easy	29	32.2	8	17.4	1	25
Very Easy	-	-	8	17.4	-	-

Extremely Easy	-	-	-	-	-	-
Total	90	100.0	46	100.0	4	100.0

Source: Field Survey 2021

Similarly, the responses on how easy exportation of goods is related to that of how easy importation of goods is. However, the skepticism is more in the agricultural sector as compared to both the manufacturing and mining and quarrying sectors. About 85% of the respondents in the agricultural sector (precisely, 86%) opine that it is difficult to export while 30% of the respondent firm owners in the manufacturing sector opines that it is very difficult to export (see Table 16). Understandably, the absence of marketing boards, as a rallying port to export goods, has made it difficult for farmers to export their produce to other countries of the world. More so, most of these farmers are into peasant agricultural practices and do not produce at commercial quantities that would promote exportation to other countries of the world. The perceptions of the firm owners in the manufacturing and mining and quarrying sectors suggests that 30.8 % and 50 % of the respondents respectively share the opinion that it is fairly easy to export.

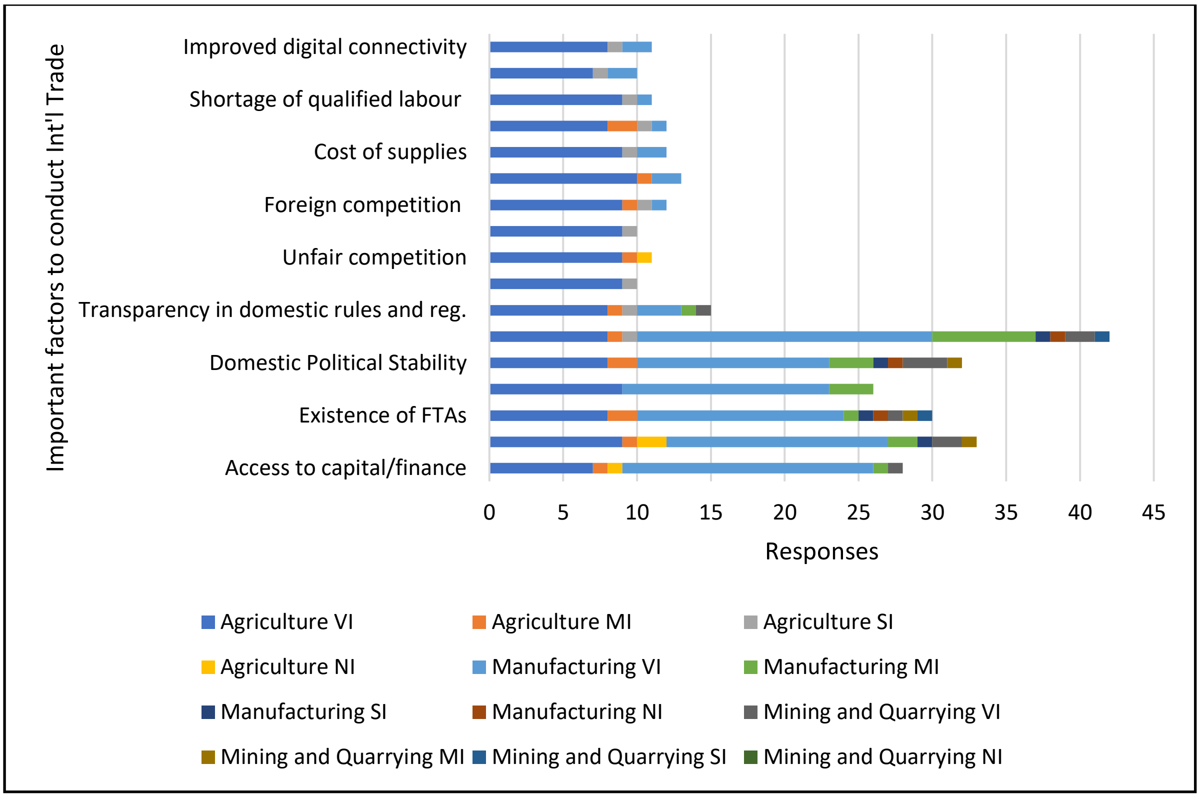
Table 16: How easy is it to Export Goods?

	Agriculture		**Manufacturing**		**Mining and Quarrying**	
	Frequency	%	Frequency	%	Frequency	%
Very difficult	66	56.7	20	30.8	-	-
Fairly difficult	34	28.9	18	27.7	2	50
Fairly Easy	17	14.4	20	30.8	2	50
Very Easy	-	-	7	10.7	-	-
Extremely Easy	-	-	-	-	-	-
Total	117	100.0	65	100.0	4	100.0

Source: Field Survey 2022

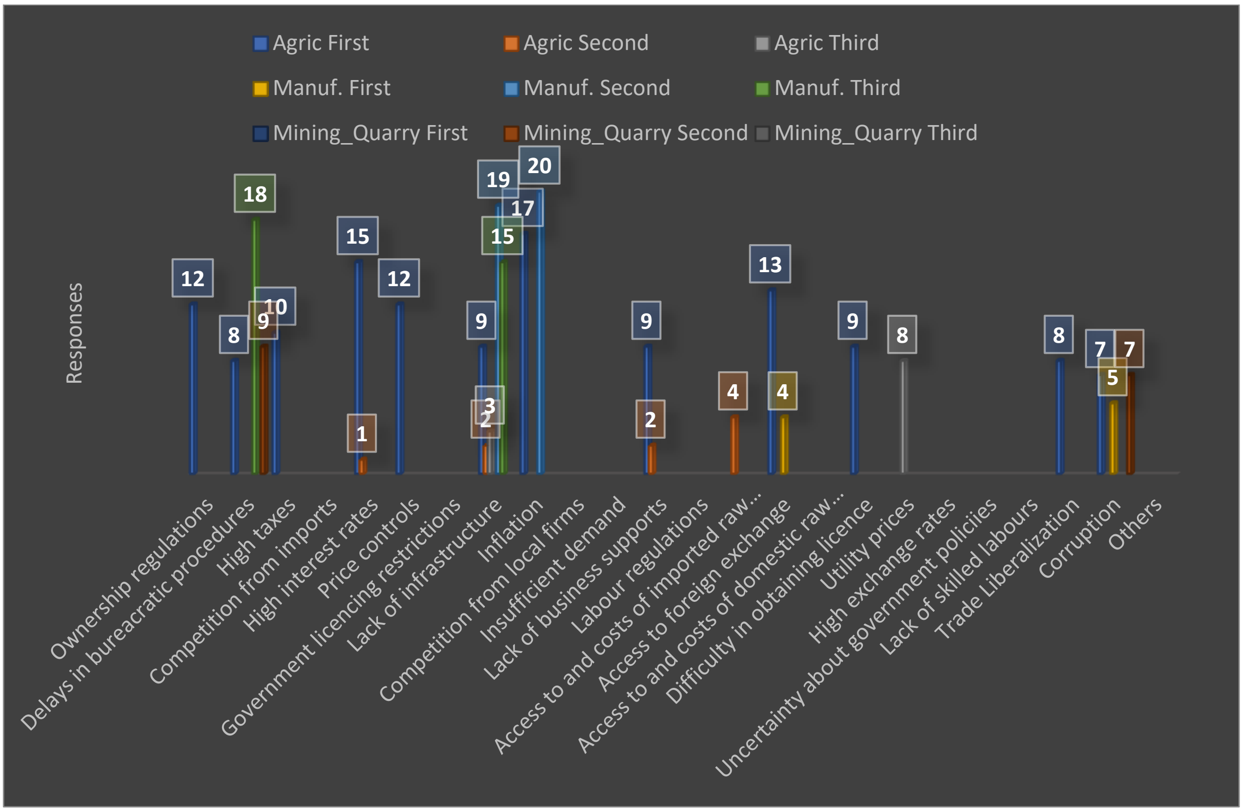
In order to promote international trade, however, the opinions of these respondent firm owners are evaluated on the bases of being very important (VI), moderately important (MI), slightly important (SI) and not important (NI). The responses elicited show the firm owners opined that six factors are most prominent in conducting international trade. These are access to capital/finance, access to trade finance, existence of free trade agreements, safety/security, domestic political stability and foreign political stability. As depicted, the firm owners in the manufacturing sector presupposes that these factors are either very important (VI) or moderately important (MI) for conducting international trade. The firm owners in the agricultural sector also share this perception that these factors are either very important or moderately important. Aside these six prominent factors, all other factors are also considered very important for the trading of agricultural produce in the international markets but much less important for the two other sectors of manufacturing and mining and quarrying sectors. In fact, the respondent firm owners in the mining and quarrying sector appear to face less challenges as compared to the other two sectors (see Figure 31).

Figure 31: Factors considered important for conducting International Trade



Consequent upon these factors hindering international trade in these three major sectors of the economy, firm owners in these sectors have crave for assistance in the areas of economic, production, trade-related adjustments, trade policy and regulations. All the firm owners in these sectors, without any exception, suggest they need assistance in these capacities once AfCFTA becomes fully implemented. However, some of these firm owners are still certain that these sectors will face some constraints in exporting goods upon the actual implementation of the continental trade agreement that Nigeria became signatory to since 2019. These firms are expected to contend with a gamut of debilitating issues. Prominent among these factors are lack of government assistance, lack of capital to finance expansion into foreign markets, cumbersome custom procedures, delay in ports, high tariffs and competition from foreign firms. As it appears, trade-related economic restructuring and reforms are needed to improve response to export response capacities. The firm owners are of the opinion that inflation, volatility, unstable and high level of exchange rates, high tariffs on imported inputs and fairness, openness, transparency of government regulations some of the contending problems facing export response capacities in these sectors. These problems are categorized to be highly problematic in nature. Of all these contending problems, the lack of infrastructure, government licensing restrictions and competitions from imports are the most severest that have to be immediately addressed in order to reduce the debilitating effects of these problematic factors (Figure 32).

Figure 32: Three Severest Constraints faced in the past year



B. Trade in Services - A New Area for Mobilizing Trade Taxes in Nigeria

Although this study does not appear to cover trade in services, it is however imperative to discuss this important area as it presents a plausible avenue to raise taxes for Nigeria. Basically, there are four modes of supplying services, with each mode presenting a opportunity for the country. The Stakeholders survey also ascertained views on these modes with respect to the AfCFTA, the service regulatory environment, stakeholders' position on international trade in services, operational issues affecting supply of services, direction of Nigeria trade in services, and awareness and perception about AfCFTA trade in services. AfCFTA covers 5 priority sectors. The survey found that:

- In terms of ***regulatory environment,*** *services* sectors or subsectors are covered by any specific policy or regulations. All service sectors are covered by one policy or the other, with the regulators different from service providers. More than 80% of business, transport and tourism and travel services agree that there are policies guiding them with 64% and 50% in communication and financial services sectors respectively.
- With respect to the ***importance of exposure to international trade in services***, all Nigeria services sectors are position to participate in international trade in service. Respondent in Transport services led the five priority sectors with the score of 86%; followed by both communications and business services at 69%; tourism and travels (63%); and financial services (55%).
- As to whether a ***particular service across border is allowed cross border (mode 1)***; nearly all respondents in the transport sector (95%) replied yes their services can cross border; while financial services appeared to be relatively closed (at 61% openness).
- As for mode 2, ***Cross border consumption***, Nigeria export and import services. However, respondents see much limitations on both export and import of services in Nigeria under in all the five sectors. These limitatons include:
  - ***Business services***: poor regulating bodies, poor infrastructure, insecurity and corruption, substandard services /corruption, immigration issues, lack of MRAs to operate, etc;
  - ***Communication services***: bureaucracy, censoring, lack of coordination, inadequate legal and regulatory environment, telecommunication network signal problems, inadequate infrastructure, etc
  - ***Financial Services***: local content Act, governance/capitalisation, standardization problems, poor infrastructural support, lack of efficient payments and settlement system
  - ***Transport services***: inadequate laws and regulation, poor facility, corruption, poor infrastructures, lack of intermodal and multimodal transport system, poor documentation, lack of information regarding trade or changes to tariff and regulations on trade, lack of clear-cut guidelines for trade transactions, , presence of multiple agencies for the same functions,
  - ***Tourism and Travels*****:** immigration visa problems. entry bottlenecks, cultural barriers, infrastructure deficiency and corruption, as well as delivery of product or service, among others.
  - On whether each of the five priority sectors should be open to other African countries, respondents across all the sectors were in agreement; as their opinion ranged from 84% to 100% .

SECTION V: STOCKTAKING AND COST-BENEFIT ANALYSIS OF TAX AND CUSTOMS IN NIGERIA

A. Trade (Tax) Incentives (Exemptions, Reductions and Credits)

1. Nigeria's Tax Revenue

The present Government is bent on increasing the cash inflows of the country by reinventing the wheel to generate both tax and non-tax revenue. Measures have been been taken to generate more revenue to the Government such as the ongoing tax reforms by the Presidential Fiscal Policy and Tax Reforms Committee set up by the Federal Government to eliminate multiple taxation, freeze rates and harmonise taxes. The Committee was set up by the Federal Government with terms of reference that include enhancing revenue collection, fiscal responsibility and tax reforms, as well as improving compliance, has begun the discharge if its responsibility. Already, discussions or conversations are underway to streamline the number of tax types from 52 to 10, to achieve payment efficiency and enhance the ease of doing business. It is equally being considered conceptually whether the name of the Federal Inland Revenue Service should be charged to the Nigeria Revenue Service in a bid to harmonize administration of tax collection activities of the Federal Government.

Currently, as stipulated in the Nigerian Law, domestic taxes at the Federal government level are collected primarily by the Federal Inland Revenue Service (FIRS) and the various States' inland Revenue Agencies in the country. Table 17 shows the various tax collections by the FIRS and the various States and Local Government Areas in Nigeria from 2010 to 2021. It is clear by this table that taxes collected by all collecting authorities have progressively increased over the years except in some few tax types. The amount generated in 2021 showed significant increase from the previous years except in cases of some taxes like Personal Income Tax collected by FIRS in 2021 in the sum of N61.20 billion as against ₦93.37 Billion collected in 2020; Education Tax in 2021 in the sum of ₦189.54 Billion as against ₦259.56 Billion in 2020; and Stamp Duties in 2021 in the sum of N33.94 billion as against ₦120.16 billion in 2020. The collection of Electronic Money Transfer (EMT) Levy commenced in 2021, and the amount collected ₦111.84 Billion, making the tax revenue for the government of the Federation to appreciate. The foregoing analysis is restricted to data provided by the National Bureau of Statistics for 2010 to 2021.

While these taxes are necessary for revenue generation, they can impact a country's trade competitiveness, therefore some countries may choose to offer incentives at the domestic level to encourage trade and investment. For instance, Holzner, Jovanović and Vukšić (2021) investigated how corporate income taxes affect international trade, and identifies the underlying channel. Using data on 33 NACE sectors, for 34 EU and OECD economies, over the period 2005-2014, they found that corporate income taxes reduce exports and imports only when the stock of foreign direct investment (FDI) is high. The effect is present primarily in the service sector and in countries with low corporate taxes. They interpreted their findings as evidence that multinational enterprises reduce their operations in countries that raise their corporate taxes. The effect has been found to be small on aggregate, implying that the expected increase in corporate taxes in the future, arising from the global minimum tax, is unlikely to hurt international trade.

Table 17: TAX REVENUE: 2010 – 2021

TAX REVENUE CATEGORY	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
	₦' Billion	₦' Billion	₦' Billion	₦' Billion	₦' Billion	₦' Billion	₦' Billion	₦' Billion	₦' Billion	₦' Billion	₦' Billion	₦' Billion
TAXES COLLECTED BY FIRS	2,839.38	4,628.48	5,007.65	4,805.64	4,714.56	3,741.76	3,307.46	4,027.95	5,320.89	5,261.92	4,952.24	6,402.71
Petroleum Profits Tax	1,480.36	3,070.59	3,201.32	2,666.37	2,453.95	1,289.96	1,157.81	1,520.48	2,467.58	2,114.27	1,516.98	2,008.45
Companies Income Tax	658.5	654.45	820.57	963.45	1,173.49	1,268.98	933.54	1,215.06	1,340.33	1,604.70	1,275.37	1,747.99
Value Added Tax (Import and Non-Import)	564.89	659.15	710.56	802.68	802.96	767.33	828.2	972.35	1,108.04	1,189.98	1,531.17	2,072.85
Personal Income Tax (FIRS)	32.93	43.87	51.61	48.94	53.29	57.74	59.86	108.01	85.42	70.63	93.37	61.2
Gas Income	-	45.23	9.73	7.73	17.75	115.57	85.88	34.84	75.99	21.93	134.06	140.1
Capital Gains Tax	1.04	9.3	8.92	19.66	2.65	16.8	99.4	3.18	12.59	5.98	3.52	17.5
Education Tax	89.18	130.74	188.44	279.36	189.61	206.04	130.12	154.96	203.28	221.06	259.56	189.54
NITDEF	5.89	8.68	9.14	9.86	9.91	12.25	6.75	10.13	11.85	15.18	18.05	19.31
Stamp Duties	6.59	6.46	7.39	7.61	10.94	7.08	5.91	8.94	15.8	18.19	120.16	33.94
TAXES COLLECTED BY STATES	401.43	487.45	584.4	662.05	707.86	682.64	803.95	936.47	1,168.93	1,635.80	1,559.77	1,895.79
PAYE	268.82	312.91	392.96	434.63	434.01	456.6	803.95	936.47	669.22	967.06	943.65	1,124.69
PIT	19.39	25.16	26.24	29.94	33.38	29.59	-	-	44.27	52.02	50.76	60.49
Road Taxes	6.12	5.65	8.79	15.41	12.57	18.41	-	-	23.96	38.44	37.51	44.7
Other Revenue	107.11	143.73	156.41	182.08	227.9	178.05	-	-	431.49	578.28	527.86	665.9

Source: Adopted from NBS, 2022.

1. Nigeria Tax Incentives

Tax based incentives[1] in Nigeria are covered under different laws and in different forms e.g., reliefs, credits, exemptions, allowances, breaks/holidays, drawbacks, etc**.** General tax based incentives include incentives based on Personal Income Tax Act (PITA), *Capital Gains Tax Act (CGTA)***,** Companies Income tax Act (CITA), As published in the website of the Nigeria Investment Promotion Commission (NIPC), the following tax incentives highlighted below have been categorized based on the underlying law, with their administering agencies[2]. This section reproduces the key section of this publication, albeit with modification.

i. *Tax Based Incentives: Personal Income Tax Act (PITA)*

> There is existing evidence that multinational enterprises reduce their operations in countries that raise their corporate taxes

Tax based incentives under the PITA are primarily administered by Federal Inland Revenue Services (FIRS) and State Boards of Internal Revenue Service. The PITA based tax based include:

a. <u>Tax credit allowable against tax payable on income derived from outside Nigeria</u>

Section 11 PITA: where a resident derives income from a source outside Nigeria and the income is brought into Nigeria through Government approved channels, he shall be allowed a tax credit against the tax payable by him, but the tax credit shall not exceed the proportion of his total tax for the year of assessment which that income derived from outside and brought into Nigeria bears to his aggregate income chargeable to tax in Nigeria.

b. <u>Consolidated relief allowance</u>

Section 33 (1) PITA allows a Consolidated Relief Allowance of N200,000 subject to a minimum tax of 1% of gross income whichever is higher, with the balance taxable in accordance with the Income table in the Sixth schedule to this Act.

c. <u>Returns not to be filed where income is N30,000 or less</u>

Section 43 PITA: no return of income shall be filed by a person whose only source of income in any year of assessment is employment in which he earns N30,000 or less from that source.

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[1] Tax incentive is a deliberate reduction or total elimination of tax liability granted by government in order to encourage particular economic activities. The cost of these tax incentives to revenue generation is known as tax expenditure. In order words, tax expenditure is the value of revenue forfeited by the government on account of tax incentives.

[2] https://nipc.gov.ng/wp-content/uploads/2020/09/Compendium-of-Investment-Incentives-in-Nigeria-final1.pdf

d. Income exempted and Exemption of interest on loan granted by banks

Section 19(1) PITA specifies several incomes that are exempted from tax, in the Third Schedule to the Act. Section 19(7) PITA exempts interest on any loan granted by a bank to a person engaged in: agricultural trade or business and the fabrication of any local plant and machinery.

e. Exemption of dividend from tax

The Third Schedule PITA lists incomes exempted from Personal Income Tax Paragraph 25 of the Third Schedule PITA exempts some dividends from tax:

- → *Dividends paid to a person by a company incorporated in Nigeria*, provided that:
  - o the equity participation of the person in the company paying the dividends is either wholly paid for in foreign currency or by assets brought into Nigeria between 1 January 1987 and 31 December 1992; and
  - o the person to whom the dividends are paid owns not less than 10 per cent of the equity share capital of the company.

- → For the purpose of the exemption referred to in 1), the dividend tax-free period shall commence from the year of assessment following the year in which the new capital is brought into Nigeria for the real purpose of the trade or business in Nigeria of the company paying the dividends and shall continue for five years if the company paying the dividends is engaged in agricultural production within Nigeria or processing of Nigerian agricultural products produced within Nigeria or production of petrochemicals or liquefied natural gas, and in any other case, the tax-free period shall be limited to three years.

ii. Tax Based Incentives: Capital Gains Tax Act (CGTA)

Tax based incentives under the CGTA are primarily administered by Federal Inland Revenue Services (FIRS) which is applicable at 10%. The CGTA taxed based tax incentives include:

a. Exemption on retirement benefits schemes

According to Section 28 CGTA, a gain shall not be a chargeable gain if income is accrued:

- o as part of any superannuation fund (retirement or benefits fund) approved under Section 20 PITA;
- o as part of any national provident fund or other retirement schemes established under the provisions of any Act or enactments for employees throughout Nigeria;
- o of any of those funds that is exempt under paragraph (w) of the Third Schedule of PITA and;

- as a result of the disposal of a right to, or to any sum payable out of any superannuation fund.

b. <u>Exemption of gains accruing on securities, stocks, shares</u>

Section 30 CGTA: gains accrued to a person from disposal by him of Nigerian Government securities, stocks and shares shall not be chargeable gains.

c. <u>Tax exemption on gain arising from take-overs, absorption or merger</u>

Section 32 CGTA: gains arising from acquisition of shares either taken over, absorbed or merged by another company as a result of which the acquired company loses its identity as a limited company, provided no cash was exchanged in respect of the shares.

d. <u>Tax exemption on proceeds re-invested</u>

Section 33 CGTA: gains accruing to unit holders in a trust in respect of disposal of securities, shall not be chargeable on tax provided the proceeds are re-invested.

e. <u>Double taxation relief</u>

Section 41 CGTA: Any arrangement set out in an order made under Section 38 PITA and Section 45 CITA so far as they provide (in whatever terms) for relief from tax chargeable in Nigeria on capital gains by virtue of this section, have effect in relation to CGT.

iii. Tax Based Incentives: Companies Income Tax Act (CITA)

Tax based incentives derived from CITA are applicable at 30%.

a. <u>Pioneer status incentive</u>

The Industrial Development Income Tax Relief (IDITRA), Cap I7, Laws of the Federation of Nigeria, 2004, the principal legislation on the subject, defines pioneer status as industries, sectors, product or services " (a) *not being carried on in Nigeria on a scale suitable to the economic requirements of Nigeria or at all, or (b) It is expedient in the public interest to encourage the development or establishment of any industry in Nigeria by declaring the industry to be a pioneer industry or any product of the industry to be a pioneer project*". Under IDITRA, companies engaged in industries/products approved as 'pioneer industries/products' shall be

- granted income tax relief for a period of three years, which can be extended for a period of one year and thereafter another one year, or for one period of two years (Section 10(2)(a)(b) IDITRA);
- exempted from paying tax on dividends paid by the pioneer company during the pioneer period to the extent that they are paid out of income exempted from tax (Section 17(3) IDITRA); and

- ➔ the loss incurred during the tax relief period is also deemed to be incurred on the first day following the expiration of the tax relief period and can be carried forward to offset profits after the tax-exempt period.

Administering Agencies: o Nigerian Investment Promotion Commission o Industrial Inspectorate Department, Federal Ministry of Industry, Trade and Investment o Federal Inland Revenue Service	Eligibility: o Applications must be made within the first year of operational activities. o Applicant must be engaged in activities listed as pioneer industry or product. Kindly refer to the qualified list of industries and products on NIPC's website. o A non-current tangible asset of over one hundred million naira (N100 million) shall be deemed as satisfiable. o Applicant must demonstrate the tangible impact its activity (project) will have on Nigeria's economic diversity and growth, industrial and sectoral development, employment, skills and technology transfer, export development and import substitution. o Applicant must provide evidence of all required legal and regulatory compliance documentation. o Applicant must make full payment of fees promptly, when due. vii. during the pioneer period, a performance report must be submitted to NIPC annually for monitoring and evaluation purposes. Application guidelines available on NIPC website

Source: NIPC Website, 2023

b. Interest on bonds and short-term securities, and proceeds of the disposal of Government and corporate securities

This incentive is administered by FIRS**. CIT (Exemption of Bonds and Short-Term Government Securities) Order 2011** provides tax exemption for interest earned on:

- short term Federal Government securities such as treasury bills and promissory notes
- bonds issued by Federal, State and Local Government and their agencies
- bonds issued by corporate bodies including supra-nationals for a period of 10 years, with the exception of bonds issued by the Federal Government, which shall continue to v enjoy such exempt from tax effective from 2011. Interest on bonds.

c. Exemption of interest on loan

Section 11(2) CITA provides exemption from tax interest on any loan granted by a bank to a company engaged in:

- agricultural trade or business; or
- the fabrication of any local plant and machinery; or
- providing working capital for any cottage industry.

d. Exemption of profit

This exemption is administered by FIRS. Section 23(1) CITA exempts the profits of the following companies from tax:

- a statutory or registered friendly society, in so far as such profits are not derived from a trade or business carried on by such society;
- a co-operative society registered under any enactment or law relating to co-operative societies;
- engaged in ecclesiastical, charitable or educational activities of a public character;
- formed for the purpose of promoting sporting activities;
- being a trade union registered under the Trade Unions Act;
- dividend distributed by Unit Trust;
- a body corporate established by or under any Local Government Law or Edict in force in any State in Nigeria;
- body corporate being a purchasing authority established by an enactment and empowered to acquire any commodity for export from Nigeria from the purchase and sale (whether for the purposes of export or otherwise) of that commodity;

- company or any corporation established by the law of a State for the purpose of fostering the economic development of that State.
- a company other than a Nigerian company which, but for this paragraph, would be chargeable to tax by reason solely of their being brought into or received in Nigeria; (
- dividend, interest, rent, or royalty derived by a company from a country outside Nigeria and brought into Nigeria through Government approved channels;
- the interest on deposit accounts of a foreign non-resident company;
- the interest on foreign currency domiciliary account in Nigeria;
- dividend received from small companies in the manufacturing sector in the first five years of their operation;
- dividend received from investments in wholly export-oriented businesses;
- any Nigerian company in respect of goods exported from Nigeria;
- a company whose supplies are exclusively inputs to the manufacturing of products for export; and
- a company established within an export processing zone or free trade zone.

e. Deduction for research and development

This incentive is administered by FIRS. Section 26 CITA provides for the purpose of ascertaining the profit or loss of any company for any period from any source chargeable with tax under this Act, there shall be a deduction, not exceeding an amount which is equal to 10% of the total profits of that company for that year as ascertained before any deduction is made under this section and Section 25 of CITA. Companies and other organisations engaged in research and development activities for commercialization shall be allowed 20% investment tax credit on their qualifying expenditure for that purpose.

f. Reconstruction investment allowance

This incentive is administered by FIRS. Section 32 CITA makes available to a company an investment allowance of 10% of the actual expenditure incurred on plant and equipment, in addition to an initial allowance under the Second Schedule of the Act.

g. Rural investment allowance

Section 34 CITA provides that where a company incurs capital expenditure on the provision of facilities such as electricity, water or tarred road for the purpose of a trade or business, such company shall enjoy an additional allowance under the Second Schedule of CITA at the appropriate rate as follows:

No facilities at all	100%	No water	30%
No electricity	50%	No tarred road	15%

h. Gas utilization: Investment allowance

For companies in gas utilization (downstream operations), an additional investment allowance of 35% (which shall not reduce the value of the asset) is allowed, as an alternative to the initial tax-free period granted under Section 39(b) CITA.

i. Gas utilization: Accelerated capital allowance

Section 39(c) CITA provides for accelerated capital allowance after the tax-free period for companies in gas utilization (downstream operations), as follows: i. an annual allowance of 90% with 10% retention, for investment in plant and machinery ii. an additional investment allowance of 15% which shall not reduce the value of the asset

j. Gas utilization: Tax-free dividend and Tax-free dividend

Section 39(d) CITA provides for tax-free dividend during the tax-free period for companies in gas utilization (downstream operations). Section 39(d) CITA provides for tax-free dividend during the tax-free period for companies in gas utilization (downstream operations).

k. Gas utilization: Interest deduction

Subject to obtaining prior approval of the Minister of Petroleum Resources for such loan, Section 39(e) CITA provides that interest payable on any loan obtained for a gas project shall be deductible

l. Investment tax relief

Sections 40 CITA provides that where a company has incurred an expenditure on electricity, water, tarred road or telephone for the purpose of a trade or business carried on by the company, the company shall be allowed an "investment tax relief" at the following rates of expenditure:

No facilities at all	100%	No water	30%
No electricity	50%	No tarred road	15%

m. 20% Income tax rate for companies with turnover less than ₦1 million

Section 40(6) CITA provides for a lower rate of tax of 20% payable by companies in the preferred sector of the economy such as agriculture, manufacturing, solid minerals or wholly export trade for the first 5 years of commencement of business, where the turnover is less than ₦1 million.

iv. Tax Based Incentives: Value Added Tax Act

The applicable rate for VAT is 7.5% which is administered by FIRS.

a. <u>Exemption from value added tax</u>

Sections 2 & 3 First Schedule VAT Act list the goods and services exempted from VAT:

Part 1. Goods

- All medical and pharmaceutical products;
- Basic food items; (c) Books and educational materials;
- Baby products;
- Fertilizer, locally produced agricultural and veterinary medicine, farming machinery and farming transportation equipment;
- All exports; (g) Plants and machinery imported for use in Export Processing Zones;
- (h) Plants, machinery and equipment purchased for utilization in gas down-stream petroleum operations; and
- Tractors, ploughs and agricultural equipment and implements purchased for agricultural purposes.

Part 2. Services

- Medical services;
- Services rendered by Community Banks, Peoples' Bank and Mortgage institutions;
- Plays and performances conducted by educational institutions as part of learning; and
- ***All exported services***

b. <u>Exemption of commissions on stock exchange transactions</u>

Part II First Schedule VAT Act is modified in VAT (Exemption of Commissions on Stock Exchange Transactions) Order, 2014. The order shall be in force for a period of 5 years. There is an exemption from VAT on commissions from the following:

- earned on traded value of shares;
- payable to Securities and Exchange Commission;
- payable to Nigerian Stock Exchange; and
- payable to the Central Securities Clearing System on stocks.

2. Tax Expenditures in Nigeria

Cost of Pioneer Status Incentives

In the case of Pioneer Status, the Government conceded a tax revenue (i.e PPT on oil companies) to the tune of $1.120 billion as a result of the grant of Pioneer Status Incentive to 12 Indigenous Oil producing companies between 2011 and 2015. Table 18-19 shows the break down for each year and the number of beneficiaries. For the Non-Oil Companies, the amount conceded was N73.511 Billion during the same period. The table shows the summary of taxes payable by Pioneer Companies but forfeited for pioneer incentives.

Table 18: Summary Of Tax Revenue Conceded Through The Grant Of Pioneer Status To 12 Oil Producing Companies Between 2011 – 2015

S/n	Year	No of beneficiaries	PPT liability ($)	Remarks
1	2011	8	80,292,530.30	
2	2012	7	397,266,153.90	
3	2013	4	549,633,194.21	
4	2014	4	92,937,448.03	
5	2015	-	-	No pioneer status was granted to the section in 2015
	TOTAL		**1,120,129,325.63**	

Source: Federal Inland Revenue Service (FIRS)

Table 19:Summary Of Taxes Payable By Pioneer Companies But Forfeited For Pioneer Incentives, 2011 To 2015 Years Of Assessment

S/N	YEAR	CIT	EDT	TOTAL
1	2011	5,268,043,053.54	332,859,628.20	5,600,902,681.74
2	2012	4,761,023,664.03	322,284,811.48	5,083,308,475.51
3	2013	17,343,965,627.02	2,053,716,311.10	19,397,681,938.12
4	2014	24,706,625,567.40	3,010,524,325.27	27,717,149,894.28
5	2015	14,633,256,057.40	2,267,468,036.23	16,900,724,093.63
	TOTAL	**65,586,552,173.00**	**7,924,901,463,28**	**73,511,453,636.28**

Source: Federal Inland Revenue Service (FIRS)

Aggregate Revenue Conceded by Government to Incentives.

Table 20 present, the aggregate revenue conceded by Government to various incentives amounted to N1.024 trillion during the period 2011 – 2015. This figure does not include concessions due to about 26 incentives in CIT and PIT, etc unable to assess due to paucity of data. However, table 20 below shows that concessions to Import Duty alone shared the greatest proportion of 49.2 percent followed by VAT waivers at 22.2 per cent. The application of this disclose is that every effort put in place by Government to drastically reduce the quantum of import duty and VAT waivers granted to economic actors and agents will greatly enhance tax revenue and hence total revenue accruing go Government annually.

Table 20:Aggregate Revenue conceded to various types of incentives 2011 – 2015

S/N	**Type of Incentives**	**Amount**	**Proportion (%)**	**Remarks**
1	Import Duty Waivers/ Concessions/Grants	503,587,654,276.53	49.2	
2	VAT Waivers Concessions/Grants	227,789,568,479.52	22.2	
3	Pioneer Status (Non-Oil Companies)	73,511,453,636.28	7.2	
4	Pioneer Status (PPT on Oil Companies	219,545,347,823,48	21.4	Amount in us$ is $1,120,129,325.63 at an exchange rate of ₦196 to $1
	TOTAL	**1,024,434,024,215.81**	**100**	

Source: derived from tables above

The above data covers computations for 2011 to 2015 and the data for 2016 is not captured in this work. Meanwhile, as at 2017, there was a list of 99 approved pioneer industries and products in Nigeria cutting across agriculture, mining and quarrying, manufacturing, electricity and gas supply, waste management, construction, trade, information and communication, professional services, financials, and administrative service sectors.

Table 21: Nigerian Investment Promotion Commission List of Companies Granted Pioneer Status Incentive from 2017 to 2022 showing Sector, Investment, Employment and Projected Tax Expenditure

2017

Sector	**Number of companies**	**Employment**	**Total Investment (₦) '000'000**	**Projected Tax Expenditure**
Manufacturing	7	1555	22,512.11	2,233,795,868.10
Information and Communication	2	91	318,200.00	1,123,522,337.00
Construction	3	450	22,052.34	1,056,647,883.30
Administration and service	1	105	3,100.00	318,050,045.10
Total	**13**	**2,201**	**365,864.45**	**4,732,016,133.50**

2018

Sector	**Number of Companies**	**Employment**	**Total Investment (₦) '000'000**	**Projected tax Expenditure**
Manufacturing	21	5,986	630,937.73	190,579,036,025.77
Electricity and gas supply	6	1,463	35,919.84	9,256,466,938.95
Construction	8	932	81,679.02	3,568,694,916.27
Agriculture	1	41	53.99	62,507,094.60
Total	**36**	**8,422**	**748,590.58**	**203,466,704,975.59**

2019

Sector	**Number of Companies**	**Employment**	**Total Investment (₦) '000,000**	**Projected Tax Expenditure**
Manufacturing	16	3,151	352,954.16	47,284,194,663.94
Electricity and gas supply	1	27	5,602.91	33,732,585.00
Construction	5	530	55,111.26	738,427,962.80

Agriculture	2	582	27,537.00	306,523,200.00
Waste management	1	56	4,080.00	251,314,600.00
Total	**25**	**4,34 6**	**445,285.33**	**48,614,193,011.74**

2020

Sector	Number of Companies	Employment	Total Investment (₦) 000'000	Projected Tax Expenditure
Manufacturing	7	6,335	174,370.93	3,809,594,196.00
Electricity and gas supply	1	28	158.00	381,750,000.00
Construction	2	175	6,482	74,310,738.00
Agriculture	1	143	5,466.31	408,358,106.10
Trade	1	17	121.00	43,339,222.20
Information and Communication	1	312	4,239.00	130,784,597.70
Total	**1 3**	**7,01 0**	**190,837.24**	**4,848,136,860.00**

2021

Sector	Number of Companies	Employment	Total Investment (₦) 000'000	Projected Tax Expenditure
Manufacturing	20	4,994	385,833.86	14,701,877,296.25
Electricity and gas supply	2	144	94,652.04	580,571,632.45
Construction	8	898	31,480.85	2,579,889,537.94
Agriculture	1	82	711.00	216,156,103.50
Administrative Services	1	217	5,500.00	1,465,800,000.00
Information and Communication	1	230	25,684.50	2,116,260,000.00
Total	**33**	**6,5 65**	**543,862.25**	**21,660,554,570.14**

2022

Sector	**Number of Companies**	**Employment**	**Total Investment (₦) 000'000**	**Projected Tax Expenditure**
Manufacturing	22	3,261	75,299.23	92,530,753,746.80
Electricity and Gas supply	2	632	5,821.38	1,738,272,011.70
Construction	7	477	24,163.52	4,075,518,419.70
Agriculture	1	232	4,763.91	110,527,380.00
Administrative services	2	166	15,632.7	2,089,665,940.80
Information and Communication	3	211	12,634.33	6,800,701,495.20
Total	**37**	4,979	**138,315.07**	**107,345,438,994.20**

A Report published by the NIPC on its website shows that as at 2nd Quarter of 2022, the NIPC had 71 companies benefitting from the pioneer status incentive while 172 applications were pending approval (Table 22).

Table 22: Pioneer Incentive Applications for Q2 2022

Approvals-in-principle granted in Q2 2022	16
PSI granted in Q2 2022	12
New PSI applications received in Q2 2022	20
Extension applications received in Q2 2022	1
Extension applications approved in Q2 2022	3
Beneficiaries as at Q2 2022	71
Pending applications as at Q2 2022	172

Cost Benefit Analysis

Although the grant of incentives involves significant concession of revenue, a cost-benefit analysis would indicate that some benefits have accrued to the economy on account of the incentives. An overview of some of the benefits is presented below, particularly for the status incentives.

3. Some Benefits Analysis of Pioneer Status to the Nigerian Economy

i. <u>Value of Investment</u>

The period covering 2011 to 2015 indicates that the level of investment is put at N2,251,753 billion (or $11,488 billion) covering 195 projects that were recipients of the Pioneer Status. Table 23 shows the annual distribution of the value of investment and number of project that generated the amount as provided to the Committee by the NIPC.

Table 23: Value of Investments: 2011 – 2015

S/N	YEAR	Number of Project	Value of Investments
1	2011	51	438.907 billion
2	2012	29	129.63 billion
3	2013	51	878.978 billion
4	2014	46	538.377 billion
5	2015	18	265.861 billion
	TOTAL	**195**	**2,251,753 billion**

The period covering 2017 to 2022 indicates that the level of investment is put at N2,432,754,000.92 billion from 157 companies that were recipients of the Pioneer Status (Table 24).

Table 24: Value of Investments: 2017 - 2022

l	Year	Number of companies	Total investment
1.	2017	13	365,864,000.45
2.	2018	36	748,590,000.58
3.	2019	25	445,285,000.33
4.	2020	13	190,837,000.24
5.	2021	33	543,862,000.25
6.	2022	37	138,315,000.07
	TOTAL	**157**	**2,432,754,000.92**

ii. Capital Importation (FDI)

According to the figures provided by the NIPC, Foreign Director Investment by way of Capital Importation is put at $4.86 billion during the period 2011 – 2015. Total shows the details (Table 25).

Table 25: Value of Capital Importation (FDI)

S/N	YEAR	Number of Project	Value of Investments
1	2011	51	357.81million
2	2012	29	184.22 million
3	2013	51	2,293.89 million
4	2014	46	1,372,04 million
5	2015	18	657.75 million
	TOTAL	**195**	**$4,865.71 Million**

* N196 = $1

iii. **Employment Generation**

For the period covering 2011 – 2015, Direct Employment generation is put at 153,297 from 195 companies granted Pioneer Status, while indirect employment is put at 3,867,672 (Table 26).

Table 26: Employment Generation by Companies Granted Pioneer Status

S/N	YEAR	Number of Project	Employment Generation	
			Direct	Indirect
1	2011	51	29,449	983,596
2	2012	29	23,262	709,491
3	2013	51	39,289	1,001,869
4	2014	46	45,472	932,176
5	2015	18	15,852	240,540
	TOTAL	**195**	**150,297**	**3,867,672**

Source: Nigerian Investment Promotion Commission (NIPC)

It also shows that the period covering 2017 – 2022, had a Direct Employment generation put at 33,523 from 157 companies granted Pioneer Status (Table 27).

Table 27: Employment Generation by Companies Granted Pioneer Status, 2017 - 2022

S/n	Year	Number of companies	Number of employment
1.	2017	13	2,201
2.	2018	36	8,422
3.	2019	25	4,346
4.	2020	13	7,010
5.	2021	33	6,565
6.	2022	37	4,979
	TOTAL	**157**	**33,523**

iv. Import Substitution/Transfer of Technology

There are clear examples of Import Substitution Industry that developed during the period under review some of which include Car Manufacturing, Beverage can manufacturing, Cement production, Fruit Juice production, Rice Milling, Iron and Steel products (8mm – 16mm steel rods), Fibre (particle) Boards, Metering equipment, Food/Fruit concentrates etc; thereby ensuring transfer or acquisition of technology to boost local production in these areas.

v. Value Proposition by Sector

Some of the key benefits arising from the Tax holiday (Pioneer Status regime), can be clearly seen and demonstrated by the robust developments of such sectors as Cement, Iron and Steel, Telecommunications, Noodles Manufacturing, Fruit Juice Production, Petrochemicals, Paper Pulp and related products manufacturing, Automobile (vehicle) manufacturing, Shopping Malls and Recreational facilities, Ports Development and Sugar production Industry; and the Marginal Oil Field producers who are mainly indigenous companies etc.

Nigeria is currently a net exporter of cement having met national output demand by such manufacturers as Messrs Dangote Cement Company PIc, Bua Cement Limited, Larfarge Cement Industries Limited, UNICEM, Ashaka Cement, Cement Company of Northern Nigeria etc, with total national output put at 58.5million metric tons per annum. Currently, Messrs Dangote Cement Company Pic the market leader in terms of Installed Capacity has invested a total of N150.0billion or ($765.31million) on its Obajana factory alone (Lines 1, 2, 3 & 4) as at year 2015. Its investment in this regard was driven by the earlier grant of Pioneer Status Incentive to the group for its investment in the acquisition and rehabilitation of the formerly government owned Benue Cement Company Pic, post privatization totaling N43.0 billion (or $260.0million) in year 1998. Its Investment to date for its Ibese Plant located in Ogun state is put at N241.0 billion or ($1.22 billion).

vi. Marginal Oil Field Operators

The contribution from the indigenous companies to the 2.5 million barrels per day was less than 2%, but in recent years following divestments of fields (assets) by the IOCs and acquisition of same by such local companies such as Seplat, Niger Delta Petroleum Development Company, Nestoil, Brittania - U, Platform Petroleum and a host of other Nigerian players currently in production, the contribution to national production levels has increased to over 10% as they currently contribute an average of 40,000 - 250,000 barrels per day. Some of the other value propositions arising from these investments include; security of production since these added production contributors are indigenous companies.

vii. Increased Investments by Indigenous Oil and Gas Companies in the Industry

Indigenous oil and gas companies have invested over $5.0 billion to develop and expand their production/operational infrastructure and facilities in the nation's petroleum Industry as at July, 2014, as disclosed by the Executive Secretary, Nigerian Content Development Monitoring Board (Source:www.energymixreport.com).

Most of these investments were made by some of the Pioneer Status beneficiaries as exemplified by those of Seplat Energy Limited ($800.0million 2013), Energia Limited, Afren Resources Limited ($900.0million) etc

viii. Increased Oil and Gas Production levels by Indigenous Firms

The chairman of Seplat Petroleum Development Company, Dr. ABC Orjiako, has disclosed in October, 2013 that twenty - five (25) indigenous oil companies contribute about 10% of Nigeria's total production of 2.5 million bd, as at 2013. Of the twenty-five indigenous companies, twenty - two (22) are recipients of the Pioneer Status Incentive.

He also added that 'in the next five years, indigenous companies will contribute 20 percent of the nation's oil and 40% of domestic gas supply, saying "They are likely to be responsible for 100% supply for domestic refining by 2020."

These figures point not just to the significance of the indigenous E&P players but their rising profile and need to pay more attention to their activities.

ix. Supporting Investments in Gas Exploration and Development

Gas exploration, production and processing activities though potentially lucrative and profitable, remains low in Nigeria as a result of the very high capital outlay required for the relevant infrastructure and equipment needed for harnessing and processing gas for industrial and other uses. As a result, most companies including the IOCs shy away from gas related projects in the upstream sector.

However, with the renewed activities of indigenous firms in the Gas sub - sector, notable increases in gas production, processing and supplies is contributing significantly in addressing the gaps in gas production and supplies to domestic and industrial users. Some of the contributions have come from some the Pioneer beneficiaries, and typically exemplified by the investments made by Seplat Petroleum in gas exploration, production and processing.

For example, the company achieved a gross production level of natural gas processed from its OML 4, 38 AND 41 of 36.2bcf, which is the equivalent of an average daily production rate of 99.0MMscb in year 2013. It plans to invest approximately US$350-

400 million (part of which will be borne by its IV partner for OMLs 4, 38 and 41, the Nigerian National Petroleum Development Company) over the next four years to increase its gross capacity to deliver approximately 300 MMscfd of sales of gas to the domestic market by the end of 2017. 2.2.23. Another great example is the joint venture (JV) partnership between two Nigerian independent oil and gas companies, Frontier Oil Limited and Seven Energy, brought about a new gas facility in Akwa Ibom State, riding on the back of a marginal field awarded in 2013.The gas processing facility, which is a boost to the gas-to-power aspiration of the Nigerian government, is capable of generating 1,000 megawatts (MW) of electricity.

x. Federal Ministry of Agriculture and Rural Development

The period under review coincided with the Federal Government's active policy to transform agriculture, in which it focused on a business approach through public-enabled and private-driven initiatives in the sector through the use of technology, entrepreneurship, market and partnership to effectively diversify the economy, and transform Nigeria into a leading global food market.

It is pertinent to state that the major incentives under consideration have to do with import duty exemptions, prohibitions, waivers and interventions granted by the Federal Government in the sector which includes Agricultural Machinery, Equipment's and spare parts, Rice, Sugar, Wheat, tomato concentrate, crude palm oil and cassava alongside other prohibitions. The associated prohibition encourage the institutionalization of the relevant reforms in the sector using the value chain approach to stimulate production, processing/ value addition and effective trade and consumption by stimulating the local production.

xi. Food Production Impact and Employment Generation:

Other socio-economic dimension of the incentives granted to promote the sectoral initiatives for sustainable diversification includes:

a. National Farmer Data Base:

The National Farmers Data Base seeks to capture genuine farmers across the country to aid their access to farm inputs and financial services and enhance their productivity. The initiative intended to register at least 20 million farmers by 2015 to aid in better targeting of subsidized fertilizers and seeds to farmers.

b. Data on Capital Importation (FDI)

The period covering 2011 to 2015 indicates that Foreign Direct Investment by way of Capital Importation amounted to about N2,251.753 billion (or $11.488 billion) covering 195 projects that were recipients of the Pioneer Status (Table 28).

Table 28: Value of Investments: 2011 – 2015

S/N	YEAR	Number of Project	Value of Investments
1	2011	51	438.907 billion
2	2012	29	129.63 billion
3	2013	51	878.97 billion
4	2014	46	538.377 billion
5	2015	18	265.861 billion
	TOTAL	**195**	**$2,251.753 Billion**

xii. Employment Generation

For the period covering 2011 - 2015, Direct Employment generation is put at 153,297 from 195 companies granted Pioneer Status, while indirect employment is put at 3,867,672 (Table 29).

Table 29: Employment Generation by Companies Granted Pioneer Status

S/N	YEAR	Number of Project	Employment Generation	
			Direct	Indirect
1	2011	51	29,449	983,596
2	2012	29	23,262	709,491
3	2013	51	39,289	1,001,869
4	2014	46	45,472	932,176
5	2015	18	15,825	240,540
	TOTAL	**195**	**153,297**	**3,867,672**

Source: Nigerian Investment Promotion Commission (NIPC)

xiii. Import Substitution/Transfer of Technology

There are clear examples of Import Substitution Industries that developed during the period under review some of which include car manufacturing, beverage can manufacturing, cement production, fruit juice production, rice milling, iron and steel products (8mm - 16mm Steel Rods), fibre boards, metering equipment, food/fruit concentrates etc; thereby ensuring transfer or acquisition of technology to boost local production in these areas.

ixx. Sectoral Impacts

Some of the key benefits arising from the incentives, particularly the tax holidays (Pioneer Status Regime), can be clearly seen and demonstrated by the robust developments of such sectors as Cement, Tron and Steel, Telecommunications, Noodles Manufacturing, Fruit Juice Production, Petrochemicals, Paper Pulp and related products manufacturing, Automobile (vehicle) manufacturing, Ports and Sugar Industry; and the Marginal Oil Field producers who are mainly indigenous companies.

Tax Expenditure is defined by section 56 of the Fiscal Responsibility Act 2007 as the amount utilized in granting tax relief or tax holiday. Tax expenditures – which take the form of tax exemptions, concessional tax rates, deductions or offsets, and deferrals of tax liability – can be a veritable tool for stimulating investments and attracting foreign direct investment. However, if not properly administered, tax expenditures can become a loophole for corruption since a bulk of the exemptions and concessions seem to be concessionary with incentives for officials to exchange tax exemptions/concessions for bribes.

Section 29 of the Fiscal Responsibility Act, 2007 (FRA, 2007)[3] requires that "any proposed tax expenditure shall be accompanied by an evaluation of its budgetary and financial implications in the year it becomes effective and in the three subsequent years, and shall only be approved by the Minister, if it does not adversely impair the revenue estimates in the annual budget or if it is accompanied by countervailing measure during the period mentioned in this subsection through revenue increasing measures such as tax rate raises and expansion of the tax base ". In other words, Section 29 requires the introduction of any new TE to be revenue neutral.

On the other hand, the revised National Tax Policy 2017 requires that "(v) any incentive to be granted should be broad, sector based, tenured and transparent. Implementation should be properly monitored, evaluated, periodically reported and kept under review[4]; (vi) revenue forgone from tax incentives or concessions should be quantified against expected benefits and reported annually. Where the benefits cannot be quantified, qualitative factors must be considered".

In Nigeria, the Constitution of the Federal Republic of Nigeria vests the National Assembly with the power to make laws or amend existing laws on the taxation of income or profits. The Federal Ministry of Finance's role in the tax system is provided for in the Finance (control Management) Act and it includes various unspecified responsibilities, including initiating proposals for amendments to tax laws by the National Assembly and supporting the Federal Inland Revenue Service and the Nigerian

[3] The Fiscal Responsibility Act (2007) aims to ensure the prudent management of the country's resources for long-term economic stability and enhance the accountability and transparency of fiscal operations. It also establishes the Fiscal Responsibility Commission to promote and enforce the Nation's Economic Objectives.
[4] The National Tax Policy (2017) does not specify who is in charge of the monitoring and evaluation of tax incentives.

Customs Service on tax administration matters. Finally, the Presidency is required to "provide leadership and direction on all tax matters to the Ministry of Finance, the Federal Inland Revenue Service, the Nigerian Customs Service and other relevant revenue generating agencies involved in tax administration in Nigeria". In addition, the Presidency is also responsible, inter alia, for signing and implementing all International and Regional treaties entered into by Nigeria and providing all necessary tools for effective and efficient tax administration in the country.

However, the governance framework for tax incentives is less clear and sometimes characterized by a "lack [of] transparency and fairness" (CBN, 2013) as well as weak coordination and implementation among the various Ministries, Departments, and Agencies (MDAs). Moreover, tax concessions in Nigeria may be created by law, regulation, or other delegated powers. This makes the description of the governance framework (i.e. the design, approval and implementation process) of tax incentives3 in Nigeria a complicated exercise. Also, In 2017, the Nigerian Investment Promotion Commission (NIPC) and the Federal Inland Revenue Service (FIRS) published a compendium of investment incentives in Nigeria, compiling the various fiscal incentives covered under the different Nigerian tax laws. Information on each TE listed in Nigeria's Tax Expenditure Statements (TES), including the institution with whom the power to grant the tax incentive resides and the corresponding administering agencies and their role[5] .

Nigeria's tax expenditure grew from N4.41 trillion (3.03% of GDP) in 2019 to N5.84 trillion in 2020 (3.79% of GDP) to N6.79 trillion in 2021. The figures quoted for the aforementioned tax expenditures are conservative as the government affirmed in the 2021 Annual Tax Expenditure Statement (TES) that it currently does not collect data on all tax expenditures as the compliance and administration costs of collecting additional data exceed the value that such data might provide. Considering Nigeria's current revenue mobilization challenges, the government must rationalize inefficient and outdated tax expenditure by conducting a cost-benefit analysis of each tax expenditure, periodically appraising the objective tax expenditure and diligently enforcing the sunset clauses for tax expenditures where they exist.

Nigeria's tax expenditure grew from N4.41 trillion (3.03% of GDP) in 2019 to N5.84 trillion in 2020 (3.79% of GDP) to N6.79 trillion in 2021

As earlier stated, tax expenditure is the estimation of revenue forgone as a result of the various tax incentives granted by the government. Broadly speaking, a tax expenditure refers to any measure in the revenue laws or other laws of a country that provides for a

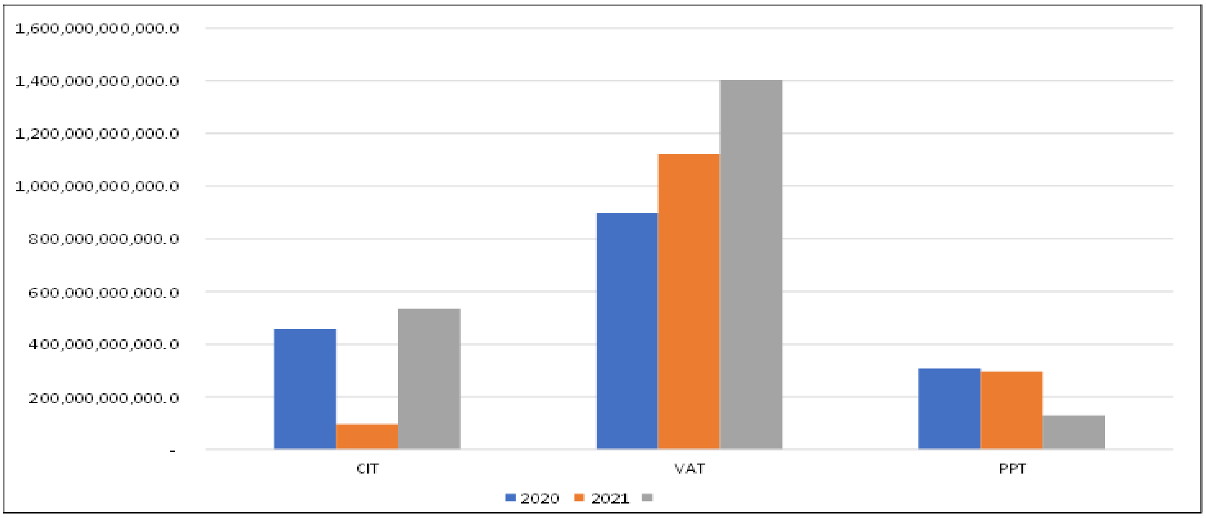
[5] TES are found in Nigeria's Medium Term Expenditure Framework and Fiscal Strategy Papers (MTEF/FSP) 2023-2025; 2022-2024; and 2021-2023

tax treatment of a particular activity, sector, or goods or services, or a particular class of taxpayer, that differs from the benchmark tax treatment and that results in a reduction in a taxpayer's liability. It can take various forms, including exemptions, concessionary deductions, tax credits, concessionary tax rates, duty or tax waivers, or deferral of a tax liability. However, a tax measure can only be a tax expenditure if it is a departure from the benchmark tax treatment. Thus, some exemptions and concessionary rates which form part of the benchmark tax treatment are not regarded as tax expenditures. For instance, the zero-rating of exports under the VAT is not a tax expenditure as it is a structural feature of the VAT, which taxes domestic consumption. Tax expenditures take the form of an allowance, waiver, preferential tax rate, exemption, deferral, or offset that reduces a tax obligation to achieve a specific policy objective. Table 30 and Figure 33 below show the Nigerian tax expenditures for Companies Income Tax (CIT), Value Added Tax (VAT) and Petroleum Profits Tax (PPT) for 2020 to 2022 as a result of tax incentives administered by FIRS only.

Table 30:Tax Expenditure for CIT, VAT & PPT for 2020 - 2022

Years	CIT	VAT	PPT	TOTAL
2020	457,000,000,000	900,000,000,000	307,000,000,000	1,664,000,000,000.
2021	96,256,237,958	1,123,571,408,225	296,308,311,813	1,516,135,957,996
2022	534,865,986,842	1,404,399,202,307	129,445,446,962	2,068,710,636,111
Total	1,088,122,224,800	3,427,970,610,532	732,753,758,775.	5,248,846,594,107

Figure 33: Tax Expenditure for CIT, VAT & PPT for 2020 - 2022



B. Tax Expenditure Data from the Budget Office of the Federation

According to the Annual Tax Expenditures Statement published by the Budget Office of the Federation, the preliminary estimate of revenue forgone from inventoried general CIT incentives and concessions in 2019 is N1.18 trillion, based on 30% effective tax rate while the total CIT collection was N1.65 trillion. According to the report, banks and financial institutions accounted for 94% of the estimated total CIT forgone while conglomerates and information and communication companies seemed to have benefitted disproportionately from the incentives (Table 31). It presented a table which shows the top four deductions claimed by the sector (i.e. banks and other financial institutions) in 2019 as follows:

Table 31: CIT Concession Claimed by Banks and other Financial Institutions in 2019

Interest on securities	192,314,482,681
Interest on loan for agriculture, fabrication, and cottage industry	3,332,476,774,810
Deductibles under s. 23(1) of CITA	59,410,943,239
Research and development	113,732,080,157
Total	3,697,934,280,887

Source: Budget Office of the Federation

Nigeria strives to increase its domestic revenues to finance its investments in public services and infrastructure. With the goal to increase Nigeria's tax-to-GDP ratio to 15% by 2025, Nigeria's Minister of Finance, Budget, and National Planning, in 2019, established the Strategic Revenue Growth Initiative (SRGI) which strives to coordinate revenue-enhancing initiatives of the federation's revenue agencies.

Fiscal Policy and Tax Reforms set up in August 2023 by President Bola Tinubu has revised the benchmark for tax-to-GDP ratio to 18% by 2024. Particular attention has been given to tax expenditures (TEs) which take the form of preferential tax treatments to particular sectors of the economy or classes of taxpayers and provide an alternative mechanism to direct expenditures to pursue specific policy objectives. However, without proper monitoring and evaluation, TEs would limit economic growth and development. In Nigeria, in 2021, the Budget Office of the Federation estimated that revenue forgone from TEs amounted to N6.8 trillion (~4% of GDP). Yet, these figures remain contentious and existing data constraints limit the ability of the Federal Government of Nigeria (FGN) to evaluate the budgetary cost of all tax expenditures.

In the quest for improvements in revenue generation, transparency and efficient management of public finance, the FGN aims to improve on the reporting of TEs, which is the first step towards understanding their cost-effectiveness and providing evidence to better inform fiscal policymaking. This involves the definition of a benchmark tax system, the adoption of a methodology for the evaluation of the budgetary costs of TEs, the validation of a harmonised TE reporting template and the preparation of a TE report. Efforts to support the management and evaluation of TEs are also being undertaken at the regional (ECOWAS / WAEMU) level, with the development of a regional template for the assessment of TEs and the harmonization of quantification methodologies and TEs report structures across Member States. Nigeria, following the ECOWAS template, has successfully reported its 20231 Tax Expenditures and the Federal Ministry of Finance has published the same in 2023. The 2021 TE Report has been substantially captured in this study.

Despite such efforts, numerous challenges to the reporting of TEs remain, including high compliance and administration costs, insufficient data, limited data quality, weak inter-agency collaboration and poor human resources capacity. The intention here is to provide a general understanding and overview of tax expenditures in Nigeria, with a particular focus on the evaluation and reporting framework of their budgetary cost. Attempt has been made to discuss findings from available Tax Expenditure Statements (TES) and explore current challenges faced by the Nigerian government in tracking and reporting tax expenditures data. The lack of information on the design, approval and implementation process of tax incentives in Nigeria and the various legal forms under which they may be conceded has limited efforts to provide a comprehensive description of their overall governance framework.

The table below contains a list of TEs that appear in Nigeria's Tax Expenditure Statements, for which cost estimates are available. The budgetary cost of tax expenditures, in terms of revenue forgone, is estimated to have amounted to N6.8 trillion (USD 17.8 billion) in 2021, approximately 4% of GDP. The benchmark tax system (BTS) is the standard tax treatment applicable generally to taxpayers, activities, or goods and services for each type of tax, based on the norms applicable under the given tax system (MTEF/FSP 2023-2025). For each tax, four different features are taken into account when establishing its benchmark:

> The budgetary cost of tax expenditures, in terms of revenue forgone, is estimated to have amounted to N6.8 trillion (USD 17.8 billion) in 2021, approximately 4% of GDP

1. the tax base - the total value of income and assets on which the tax is charged (profit, income, final consumption etc.);
2. the tax rate - the rate of tax applied to the tax base;
3. the tax unit - the entity liable to pay the tax (firm, individual, household, final consumer etc.); and
4. the tax period - the period of time used as a basis for calculating the amount of tax payable. Table 34 List of tax expenditures in Nigeria for which cost estimates exist, and their governance framework

Figure 34: List of tax expenditures in Nigeria for which cost estimates exist, and their governance framework

Tax expenditure	Type	Time Frame	Definition of the Underlying Tax	Relevant Legislation	Power to Grant Tax Incentive	Administering Agencies of the Tax Incentive and their Role
Import Duty	Exemption	Permanent	Various import duty rates apply to different goods (see First Schedule of the Customs, Excise Tariff, Etc. (Consolidation) Act)	Customs, Excise Tariff, Etc. (Consolidation) Act Customs and Excise Management Act	The President of the Federal Republic of Nigeria ("The President")	Nigerian Customs Service (NCS): see a description of its role in Section 3 of the Nigerian Customs Service Board Act
Surcharge (7% of Import Duty)	Exemption	Permanent	A tax levied on goods imported of 7% of the import tariff value, meant for port development	Customs, Excise Tariff, Etc. (Consolidation) Act	The President	Nigerian Customs Service (NCS)
Common External Tariff Levy	Exemption	Permanent	Rate to be applied to import for countries outside ECOWAS-by-ECOWAS members	ECOWAS Trade Liberalization Scheme:	The President	Nigerian Customs Service (NCS)
				Protocols and		
				Regulations		
Comprehensi ve Import	Exemption	Permanent	A charge of 1% on imports	N/A	The President	Nigerian Customs Service (NCS)

Supervision Scheme						
ECOWAS Trade Liberalization Scheme	Exemption	Permanent	The scheme grants total exemption from import duties and taxes on products originating from ECOWAS Member States	ECOWAS Trade Liberalization Scheme :Protocols and Regulations	N/A	Nigerian Customs Service (NCS)
Iron Levy	Exemption	Permanent	Discretionary	N/A	The President The Minister of Finance	Nigerian Customs Service (NCS)

Source: Global Tax Expenditures Database (GTED). N/A stands for information not available at the time of this study.

Tax expenditure	**Type**	**Time Frame**	**Definition of the Underlying Tax**	**Relevant Legislation**	**Power to Grant Tax Incentive**	**Administering Agencies of the Tax Incentive and their Role**
National Automotive Council Levy	Exemption	Permanent	Discretionary	National Automotive Design and Development Council	The President The Minister of Finance	N/A
Value-Added Tax	Exemption	Not	A tax levied on the	Value Added	The Minister	Federal Inland

(VAT)		Permanent	consumption of goods and services at the rate of 7.5% (since 2020, previously 5%).	Tax Act (VATA)	responsible for matters relating to finance[7]	Revenue Service (FIRS): a full description of the functions of FIRS is found in Section 8 of the FIRS (Establishment) Act, 2007.
Import VAT	Exemption	Not permanent				
25 Million Naira Threshold for VAT	Exemption	Permanent	The Finance Act 2019 was the first to establish a threshold for the remittance of Value-Added Tax (VAT) and other related tax obligations. By this change, VAT eligible payers whose taxable supplies (supplies or receipts of VAT-able goods and/or services, e.g., services of lawyers, engineers, accountants, construction contractors and consultants, etc.) within a calendar year below 25 million Naira enjoy exemption from specific VAT liabilities.	Section 23(1)(n) of Company Income Tax Act (CITA) Cap.C21, LFN as amended		

The Minister may by order published in the Gazette - (a) amend the rate of tax chargeable; and (b) amend, vary or modify the list set out in the First Schedule [Goods and Services Exempt] to Value Added Tax Act

Tax expenditure	Type[5]	Time Frame	Definition of the Underlying Tax	Relevant Legislation	Power to Grant Tax Incentive	Administering Agencies of the Tax Incentive and their Role
Companies Income Tax (CIT)	Exemption	Not permanent; 3 years in first place, then 1+1 year extension	A tax imposed on the profit of a company from all sources. Rates vary according to the size of the company: Small companies (0%) Medium-sized companies (20%) Large companies (30%)	Companies Income Tax Act (CITA) Industrial Development (Income Tax Relief) Act (IDITRA)	National Assembly The President of the Federal Republic of Nigeria	Federal Inland Revenue Service (FIRS): a full description of the role of FIRS is found in Section 8 of the FIRS (Establishment) Act, 2007 Nigerian Investment Promotion Commission (NIPC): see its role in the PSI Appendix Industrial Inspectorate Department, Federal Ministry of Industry, Trade and Investment: see its role in the PSI Appendix

Petroleum ProfitsTax	Multiple (allowance /credit)	Permanent	A tax levied on the profits of any company engaged in petroleum operations. Various rates apply according to the nature of the operations (see a summary from PwC here).	Petroleum Profits Tax Act (PPTA) Deep Offshore and Inland Basin Production Sharing Contracts Act (DOIBPSCA)	N/A	Federal Inland Revenue Service (FIRS): a full description of the role of FIRS is found in Section 8 of the FIRS (Establishment) Act, 2007.

"The National Assembly may on the proposal by the President of each of the Houses of National Assembly impose, increase, reduce, withdraw or cancel any rate of tax, duty or fee chargeable specified in section 29 [Basis for computing assessable profits] and the Second Schedule to the Act [Capital Allowances] in accordance with section 59 (2) of the Constitution of the Federal Republic of Nigeria, 1999" (CIT Act)

"The President may exempt by order - (a) any company or class of companies from all or any of the provisions of this Act; or (b) from tax all or any profits of any company or class of companies from any source ; on any ground which appears to it sufficient". (CIT Act) | [...] the President may, in accordance with the provisions of this Act, issue the [pioneer] certificate to the company in any proper case" (IDITRA)

Tax expenditure	Type[5]	Time Frame	Definition of the Underlying Tax	Relevant Legislation	Power to Grant Tax Incentive	Administering Agencies of the Tax Incentive and their Role
				Note: Only Petroleum Investment Allowance (PIA), Investment Tax Allowance (ITA) and Investment Tax Credit (PSC) are taken as TEs (MTEF/FSP 2022-2024).		
The Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme	Credit	2019-2029	The Nigerian Road Investment Tax Credit Scheme (RITCS) is a Public-Private Partnership intervention that enables the FGN to leverage private-sector funding for the construction or refurbishment of eligible road infrastructure projects in Nigeria. Participants in the scheme are entitled to use the	Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme Order 2019	The President of the Federal Republic of Nigeria (Executive Order)	Road Infrastructure Development and Refurbishment Investment Tax Credit Scheme Management Committee: a full description of the role of this committee is found in the First Schedule of this order.

(RITCS)			incurred project cost in the construction and refurbishment of eligible roads as a credit against CIT payable in and from the fiscal yearin which the project cost is incurred until it is fully utilized.			Federal Inland Revenue Service (FIRS). Role: issue the Road Infrastructure Tax Credit Certificate to eligible beneficiaries.

A company that has incurred any qualifying capital expenditure for the purposes of petroleum operations carried out by it is entitled to, for the accounting period in which that asset was first used or for the purposes of such operations, an investment allowance of 5 to 20% (in accordance with the nature of its operations) of such expenditure. (PPT Act)

A crude oil-producing company that executed a Production Sharing Contract with the Nigerian National Petroleum Corporation after July 1, 1998, is entitled to an investment tax allowance of 50% flat rate on qualified capital expenditure that is deducted from assessable profit. (DOIBPSCA).

A crude oil-producing company that executed a Production Sharing Contract with the Nigerian National Petroleum Corporation prior to July 1, 1998, is entitled, throughout the duration of such contract, to claim an investment tax credit allowance, as an offset against tax, of 50% flat rate of chargeable profit. The chargeable tax is thus the amount of the assessable tax less the investment tax credit. (DOIBPSCA)

Tax expenditure	Type[5]	Time Frame	Definition of the Underlying Tax	Relevant Legislation	Power to Grant Tax Incentive	Administering Agencies of the Tax Incentive and their Role
Nigerian Export Processing Zones Authority (NEPZA) Act	Exemption	Permanent	Companies carrying on approved businesses under (the third schedule to) the NEPZA and established in the Export Processing Zones or Free trade Zones are generally exempted from taxation. Section 18(1) (a) of NEPZA provides that entities established within the zones shall be entitled to legislative reliefs pertaining to taxes, levies, duties and foreign exchange regulations. Section 8 of NEPZA further provides that approved entities operating within a Zone shall be exempted from all Federal, State and local Government taxes, levies and rates.	The Companies Income Tax Act in section 23 (1) (s) expressly exempts a company established within an export processing zone or free trade zone from companies' taxation, provided that 100% production of such company is for export.	The President of the Federal Republic of Nigeria	The Federal Ministry of Trade and Investment: supervises, promotes, and facilitates local and international investments into licenced free zones in Nigeria
Oil and Gas Export Free	Exemption	Permanent	OGEFZA makes provisions for incentives similar to those in the	OGFZA was established by	The President of the Federal	Oil and Gas Free Zones Authority (OGFZA):

Trade Zone Authority (OGEFZA) Act			NEPZA Act, notably establishing the Onne/Ikpokiri area of Rivers State as an oil and gas free trade zone (FTZ). The benefits of operating in the zone includes zero customs and tax, 100% repatriation of capital, 100% repatriation of profit and 100% foreign ownership.	Section 2 of the Oil and Gas Export Free Zone Act No. 8 of 1996 to regulate Nigeria's Oil and Gas free trade zones.	Republic of Nigeria	charged with the responsibility to license, regulate, supervise, manage, control and co-ordinate the activities of OGFZs in the country; grant requisite permit and licence to all prospective investors wishing to do business within OGFZs in Nigeria; offer incentives to free zone enterprises; ensure that maximum free zone incentives and benefits are passed to the free zone registered companies; promote the free zones to investors
Gas Utilization Incentive	Exemption	Not permanent; 5 year tax	Companies engaged in gas utilization are entitled to a form of Pioneer Status granting companies a tax-free period for up to five years, tax-free dividends during the	Petroleum Profits Tax Act	Ministry of Industry, Trade and Investment Ministry of Finance	Federal Inland Revenue Service (FIRS)

		holiday with an additional dividend free investment	tax-free period, and accelerated capital allowance after the tax-free period.		

C. The Tax Expenditure Statement (TES): Legal Background, Purpose and Framework

In April 2020, the Federal Ministry of Finance, Budget, and National Planning issued the FGN 2021 Tax Expenditures Statement Call Circular laying out the requirements and instructions for the preparation of the annual Tax Expenditures Statement (TES) by the Budget Office of the Federation (BOF), as part of the Medium-Term Expenditure Framework and Fiscal Strategy Paper (MTEF/FSP); and to be included in the Annual Federal Budget.

For this purpose, BOF was required to form a Tax Expenditures Committee with representation from the Presidency, the Federal Ministry of Finance, the Federal Inland Revenue Service, the Nigerian Customs Service, the Nigeria Investment Promotion Council, the Office of the Accountant-General of the Federation, the BOF and any other MDA that BOF determined to be relevant.

The Tax Expenditure Statement describes the methodological approach for the definition of the BTS and the measurement framework, and provides estimates of the revenues forgone caused by tax expenditures.

The Circular requires the TES to include:

- the benchmark tax system to be used as the basis for determining whether a particular tax measure constitutes a TE;
- a separate calculation of the estimated revenue forgone for each TE/beneficiary. This is the difference between the revenue that would have been collected under the BTS (under the assumption that taxpayer behaviour remains unchanged) and the actual revenue collected as a result of the TE;
- the revenue forgone estimates for the current year and the following three fiscal years.

The purpose of the TES is to provide data on the cost of TEs to facilitate the evaluation of their effectiveness in achieving their stated social and economic policy.

Table 32:The Nigerian Reference Tax System (or BTS) for VAT and CIT

Box 2. The Nigerian Reference Tax System (or BTS) for VAT and CIT		
	Value-Added Tax (VAT)	**Companies Income Tax (CIT)**
Relevant tax legislations	Value Added Tax Act (VATA CAP VI LFN 2004) Value Added Tax (VAT) (Modification) Order, 2021	Companies Income Tax Act (CITA) Industrial Development (Income Tax Relief) Act
Reference rate	7.5% (in 2020 and 2021) and 5% (in 2019) 0% for exports	Flat rate of 30%
Reference taxable amount	In accordance with the relevant provisions of the VATA CAP VI LFN, 2004 (notably, Sections 5 on the Value of Taxable Goods and Services and Section 6 on the Value of Imported Goods).	The taxable income of a company for an accounting year, which is the total income derived by the firm during the accounting year less the total deductions allowed to the firm for the year. Capital gains are not included in the reference taxable amount as they are subject to separate taxation under the Capital Gains Tax Act, Cap C1 LFN 2004 (as amended). Expenditures incurred to derive income charged to tax are allowed as a deduction. These include operating expenditure, which is deducted outright in the tax year it is incurred, and capital expenditure, which is deducted on a depreciation or amortization basis over the useful life of the expenditure. Further, a net loss for a tax year is carried forward as a deduction in the following tax year.

Data sources/ Methodology	Data on VAT estimates are based on the Supply-Use Tables (SUT)[6] prepared by the National Bureau of Statistics (NBS) for 2010 adjusted, where possible, to 2021, 2020, and 2019 for the respective TES. VAT is estimated as the product of final expenditures (households and governments) obtained from the SUT and the legislated tax rate of 7.5% (5% in 2019). The total VAT collected (net of input tax credits) is then deducted to calculate the revenue forgone. However, the computed difference accounts for both TEs and the compliance gap[7]. Only the 2020 TES distinguished between the two[23].	Data on CIT collections and CIT estimates for the computation of TEs is provided by the Federal Inland Revenue Service (FIRS), based on returns filed by companies benefiting from the Pioneer Status Incentive (PSI)[24].
	Derogatory provisions contained in the following conventions and protocols, to which Nigeria is a signatory, are considered part of the BTS: → The Vienna Convention on Diplomatic Relations → The Florence Agreement and its Nairobi Protocol	Favourable tax measures for residents in countries with tax treaties with Nigeria form part of the CIT BTS. This is of particular relevance to the taxation of business profits, dividends, interest, and royalties under tax treaties. While a 30% CIT rate is assumed, which is the rate applied to large companies (i.e. those with gross turnover

[6] A Supply-Use table describes how goods and services become available in an economy (either through domestic production or imports) and how they are used (either for intermediate consumption or final use) during a particular period of time (United Nations Statistic Division).

[7] The compliance gap is caused by different factors including the informal sector, aggressive tax planning, or issues in tax administration (MTEF/FSP 2022-2024).

Additional comments	→ The Chicago Convention → The Revised Kyoto Convention → The 2009 ECOWAS VAT Directive (Articles 8, 9, and 10), as amended by the 2017 Directive. Input tax credits are considered an integral part of the VAT system since they ensure that VAT applies only to the value-added. They are thus part of the BTS and are not considered a tax expenditure. With the exception of the special economic zones and the oil and gas sector, Nigeria denies input tax credits on services and some capital expenditures and assumes that unrecoverable tax paid on such services and capital is a structural component of Nigeria's VAT system and thus considers it part of the BTS	greater than N100 million), there are companies eligible for a 20% rate (medium-sized companies with gross turnover greater than N25 million and lower than N100 million) but data is not available on the distribution of firms.

The TES do not specify the data sources for all tax relief measures under CIT, including, for instance, the exemption from CIT for companies under Section 23 of CITA or special tax provisions for activities performed in Free Zones.

Regarding the 2021 TES Call Circular, Ministers/Accounting Officers/Chief Executive of all Ministries/Departments/ Agencies (MDAs) should identify and list, using the "Information Return for Tax Expenditures" form (see Appendix C), all MDAs under their supervision that have the power to grant concessions (that may lead to TEs) created by law, regulation or other delegated powers. Such MDAs should complete the form for each financial year (starting in FY 2019). The form shall report all concessions granted by the relevant MDA by March 31 of the year following that in which the concession was granted and shall be sent to the Budget Office, accordingly. The Budget Office shall then prepare the TES and provide a list of concessions leading to TEs as an appendix to the TE.

In summary, Nigeria currently produces tax expenditures statements but is encouraged to produce more comprehensive TE reports. This is not just an emerging consensus in the region, but will also allow the Government to better quantify the estimated revenue forgone and enhance fiscal management transparency. The reporting of TEs is the first step towards the evaluation of their effectiveness. It is therefore crucial to improve current reporting processes in order to facilitate the design and implementation of evidence-based TE reforms and ultimately enhance domestic revenue mobilization.

D. VAT Tax Expenditure Quantification

Table 33 shows that the largest source of tax expenditures in 2021 is from mineral resources, accounting for 55.05% of the total tax expenditures. There was no tax expenditure for import VAT from this source. This is followed by tax expenditures from national legislations, which is 24.56% of the total tax expenditures with the share of Domestic VAT being 17.45%. International conventions and protocols accounted for 16.85% of the total tax expenditures while discretionary waivers contributed 3.54% of the total tax expenditures.

Table 33: Tax Expenditure by Sources

Sources	**Tax Type**	**2021**	
		Amount	**Percentage by total Tax Expenditures**
National Legislations	Domestic VAT	649,120,378,348.15	17.45%
	Import VAT	264,497,494,254.86	7.11%
International Convention and Protocol	Domestic VAT	0	0.00%
	Import VAT	626,805,700,299.23	16.85%
Mineral Resources (oil and gas, mining)	Domestic VAT	2,047,451,001,292.47	55.05%
	Import VAT	0	0.00%
Other Sources (e.g., discretionary waivers)	Domestic VAT	0	0.00%
	Import VAT	131,672,463,904.95	3.54%

Sub-Total	Domestic VAT	2,696,571,379,640.62	72.50%
	Import VAT	1,022,975,658,459.04	27.50%
Total		**3,719,547,038,099.66**	

The table also shows that domestic VAT accounted for a larger share of tax expenditures than import VAT, with domestic VAT contributing 72.50% of the total tax expenditures and import VAT contributing 27.50%. The total tax expenditures for 2021 was 3.7 trillion Naira.

E. Tax Expenditure Analysis (Domestic VAT)

A total of six hundred and seventy-nine (679) beneficiaries from 24 sectors of the economy benefitted from tax expenditures in 2021 in Nigeria (Figure 35).

Figure 35:Number of Beneficiaries of Domestic VAT

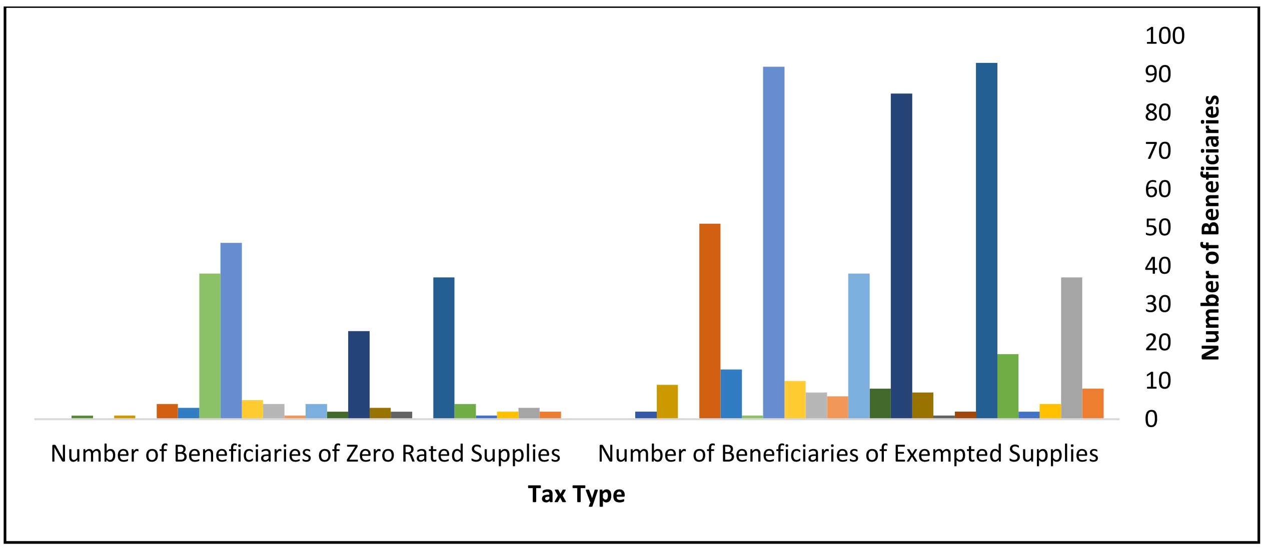


Figure 36 provides insight into which sectors benefitted more from tax exemptions and zero-rated supplies. The commercial and trading sector has the highest number of beneficiaries of zero-rated supplies (37) and exempted supplies (93). 'Other manufacturing' has the second-highest number of beneficiaries of both types of supplies, with 46 beneficiaries of zero-rated supplies and 92 beneficiaries of exempted supplies. The oil production sector has the highest number of beneficiaries of zero-rated supplies (38), while the professional services sector has the highest number of beneficiaries of exempted supplies (85). At 72.88%, oil production sector has the highest share of exempted and zero-rated supplies followed by commercial and trading sector with only 8.24% and Agriculture and Plantation sector with 5.22%.

Figure 36: 18% VAT (Exempted & Zero)

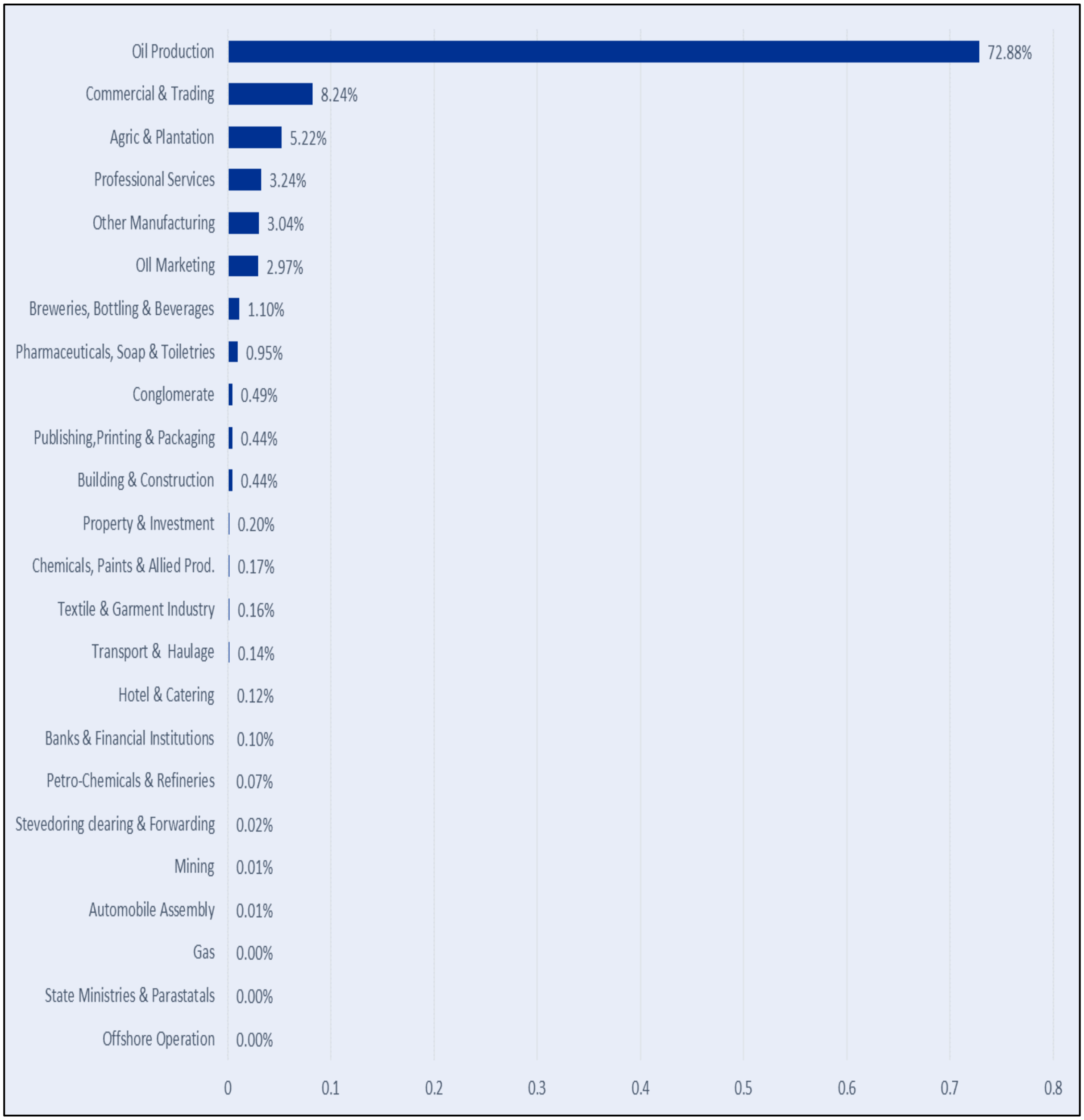
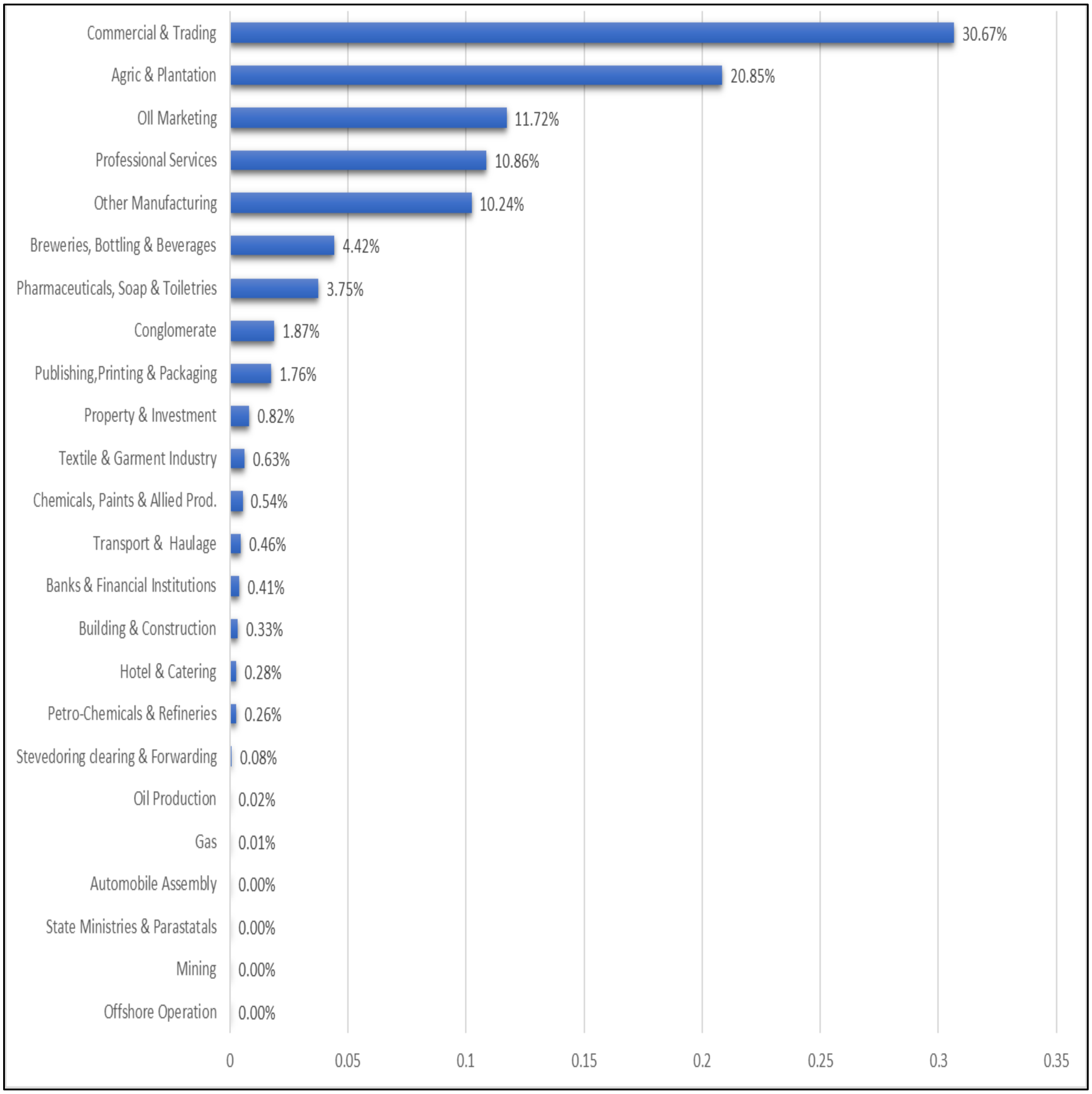


Figure 37: 18% VAT on supplies



Other types of breakdowns of activities relating to tax expenditure (domestic VAT)

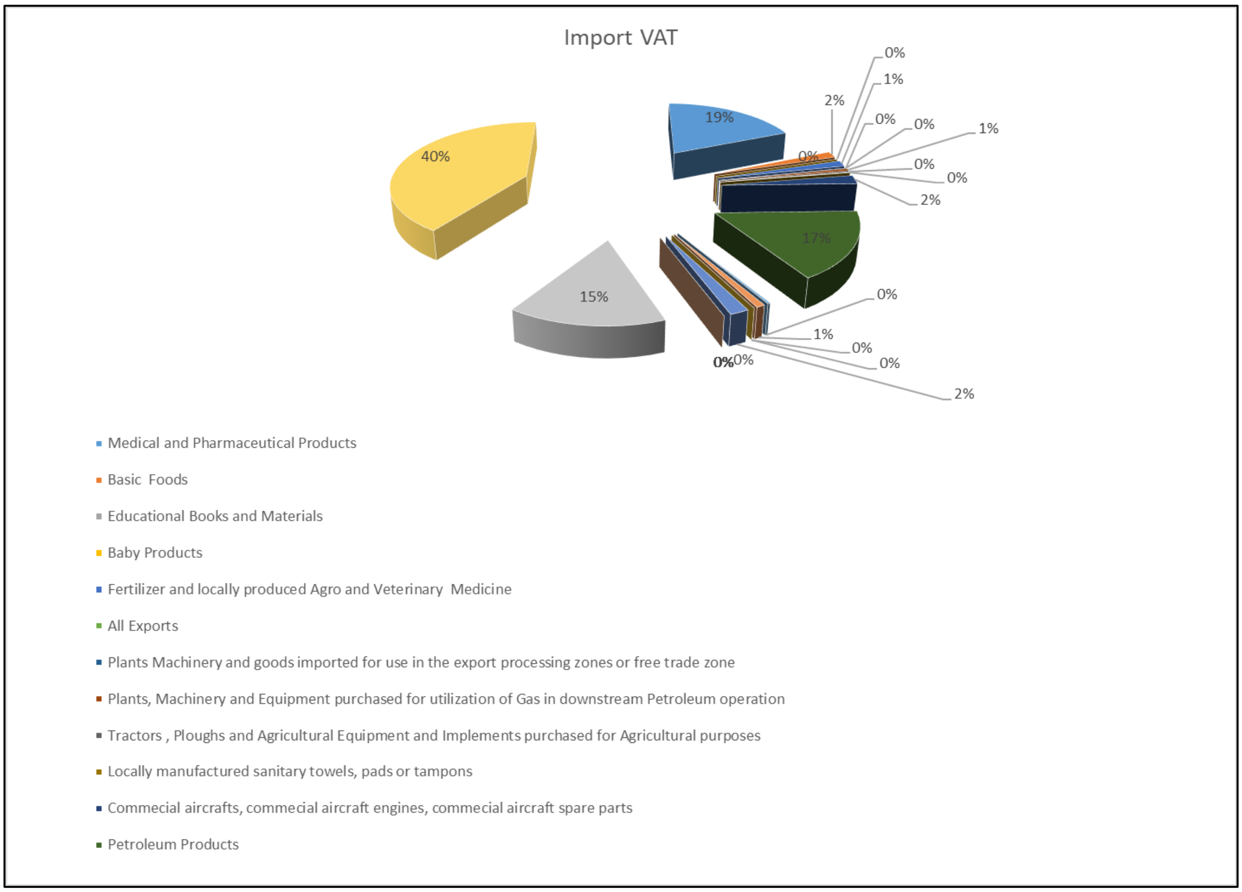
a. Breakdown by Beneficiaries
b. Breakdown by Purpose
c. Breakdown by Objectives
d. Breakdown by Budgetary or Programme Functions

E. Tax Expenditure Analysis (Import VAT)

For the import VAT, Humanitarian donor funded projects, which is zero-rated under the Nigeria VAT law has the highest share of tax expenditures at 40%. Medical and Pharmaceutical Products had a share of 19% while Petroleum Products and Discretionary waivers contributed 17% and 15% respectively. Share of 'basic food' is 1.5%. The analysis of the tax expenditure on import VAT could be following breakdown (Figure 38):

a. Breakdown by Sector of Activity
b. Breakdown by Beneficiaries
c. Breakdown by Purpose
d. Breakdown by Objectives
e. Breakdown by Budgetary or Programme Functions

Figure 38: Import VAT



Ratios: tax expenditure to tax revenue, tax expenditure to Gross Domestic Product (GDP).

The ratio of total VAT tax expenditures to the nominal GDP is 2.14 percent. This means that in 2021, tax expenditures from both domestic and import VAT was equal to 2.14 percent of Nigeria's total economic output in nominal terms. Import VAT contributes 0.59 percent while domestic VAT contribution is 1.55 percent (See table 34 & 35).

Table 34: Tax Expenditure to GDP

Tax Description	Amount
Total TE for domestic and import VAT	3,719,547,038,099.66
Domestic VAT	2,696,571,379,640.62
Import VAT	1,022,975,658,459.04
Nominal GDP	173,527,662,344,318.00

Table 35: Tax Expenditure Shares to GDP

Tax Expenditure	Percentage to nominal GDP
Ratio of total tax expenditures to nominal GDP	2.14%
Import VAT as ratio of nominal GDP	0.59%
Domestic VAT as ratio of nominal GDP	1.55%

Tax Expenditure to Total Revenues

The total tax expenditures as a ratio of total VAT collection stands at 179.44 percent. This ratio suggests that total VAT tax expenditures is 1.79 times the total VAT collected from both domestic and import VAT. The total tax expenditures due to Import VAT is more than twice the total import VAT collection at 218.73 percent. Finally, the total TE (domestic VAT) to total non-import VAT collection is 167.99 percent. This ratio indicates that tax expenditures from domestic sources on non-imports is 1.68 times the total domestic VAT collected (See Table 36).

Table 36:Tax Expenditure to Total Revenues

Tax Expenditure	Percentage to VAT Collection
Total tax expenditures as a ratio of total VAT collection	179.44%
Total tax expenditures (import VAT) to total Import VAT collection	218.73%
Total tax expenditures (Domestic VAT) to total Non-import VAT collection	167.99%

Cost of Tax incentive: The Case Evaluation of Socio-Economic Impact of VAT Exemptions in Nigeria

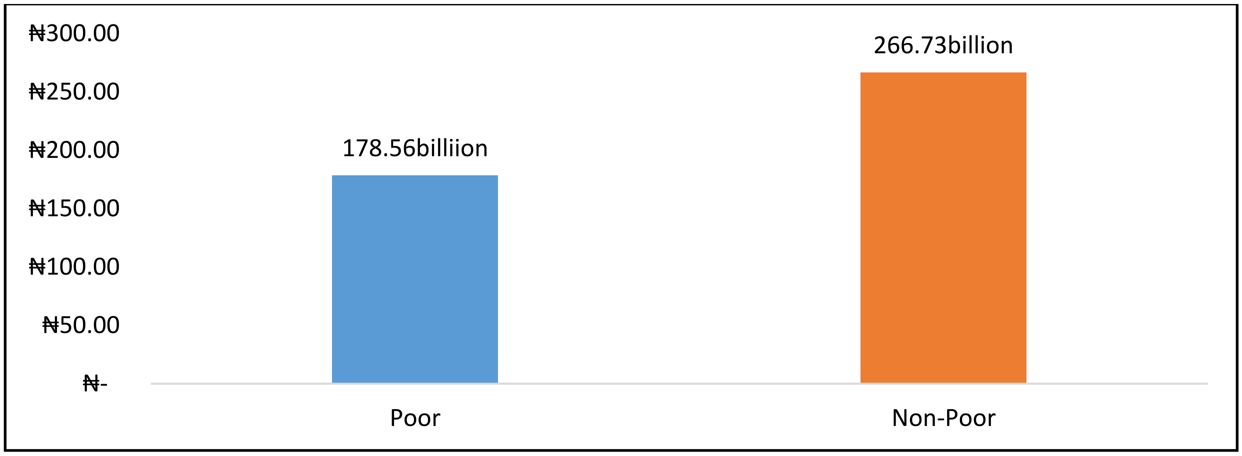
A tax expenditure report is not complete without an evaluation of the socioeconomic impact of exemptions. This is necessary to guide decision makers on the effectiveness and relevance of the exemptions granted. To accomplish this task, the committee on Tax Expenditure has integrated the report of a previous study carried out by FMF, FIRS, NCS and NBS, on the Socioeconomic Impact of the Removal of Tax Exemptions on Milk and Pharmaceutical products.

The report purposely selected these products because they are consumed across all socioeconomic strata in the country. Milk is an essential component of household consumption basket especially in infant dietary formulas and a vital component of breakfast menu in many homes. In addition, pharmaceutical products are essential commodities to households irrespective of economic status.

The study revealed the following:

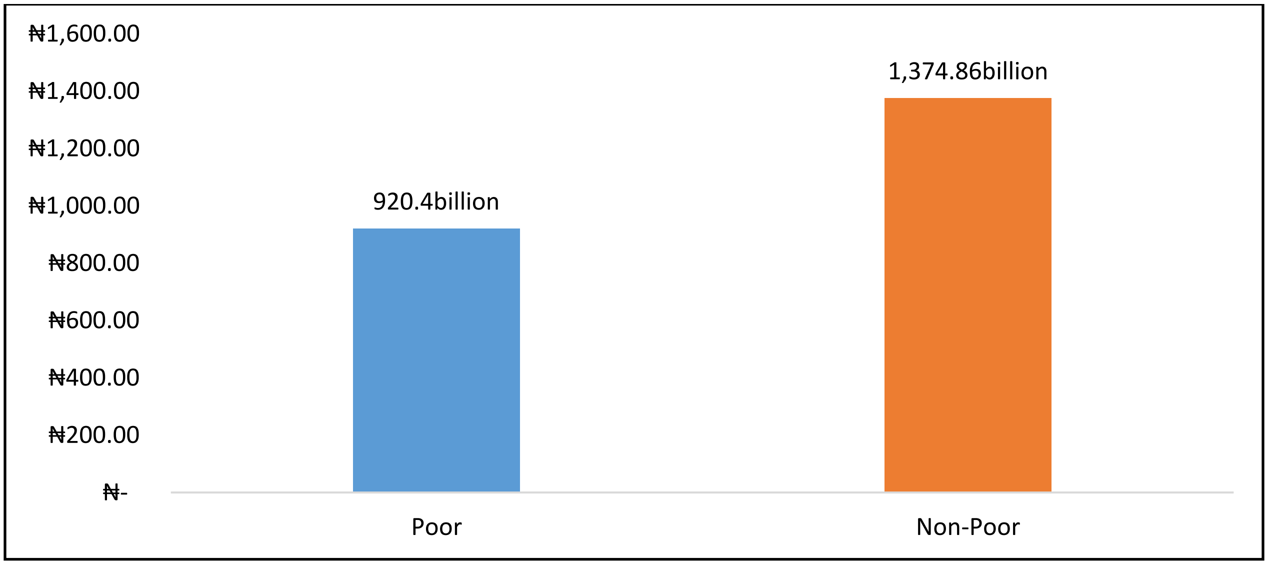
1) The consumption expenditure of milk by the poor in 2019 was N178.56 billion, while the consumption expenditure by the non-poor during the same year was N266.73 billion, which suggests that the non-poor *consumed* more milk than the poor

Figure 39: Consumption Expenditure on Milk by Poor and Non-Poor in 2019



2) The household consumption expenditure on pharmaceutical products by the poor in 2019 was N920.40 billion as against the consumption expenditure by the non-poor of N1,374.86 billion during the same period. This indicates that the consumption expenditure on pharmaceutical products by the non-poor was about 50% higher than that of the poor (see figure 40).

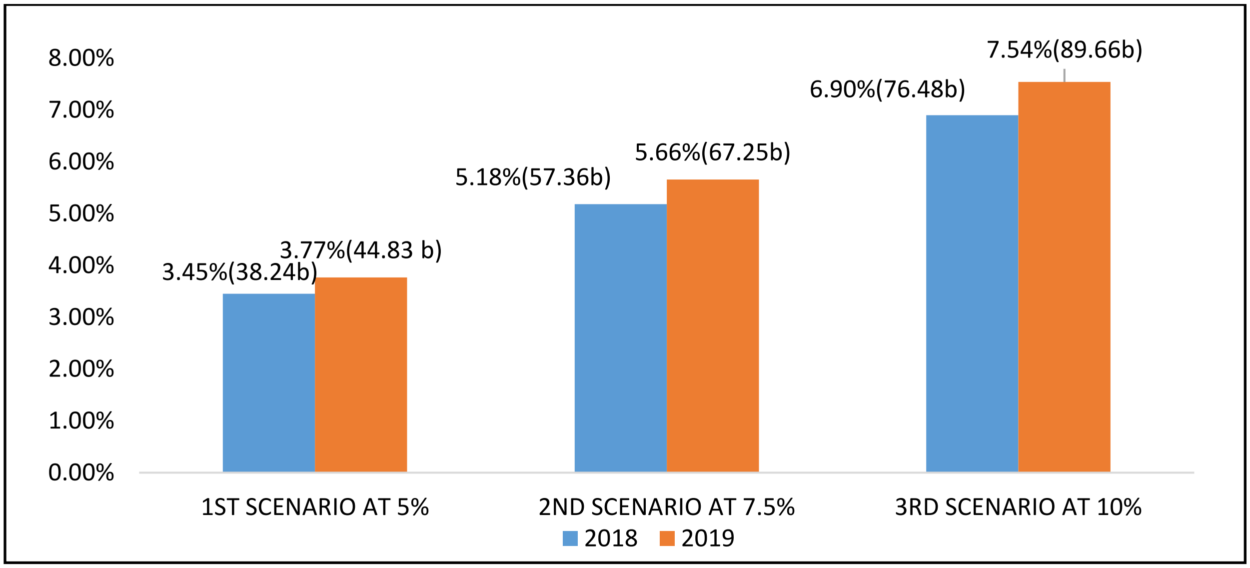
Figure 40:Pharmaceutical Products Consumption Expenditure by Poor and Non Poor in 2019



3) The VAT exemption on milk and pharmaceutical products production as part of government incentive cost Nigeria a huge revenue loss. Figure 41 shows that, at 5% VAT rate, Nigeria lost N38.24 billion and N44.83 billion in 2018 and 2019 respectively due to the grant of VAT exemptions on these products. These figures

accounted for 3.45 percent and 3.77 percent of actual VAT collection in 2018 and 2019. Similarly, at 7.5% VAT rate, Nigeria would have lost N57.36 billion and N67.25 billion from milk and pharmaceutical products exemption in 2018 and 2019 respectively. These figures are about 5.18% and 5.66% of actual VAT revenue in 2018 and 2019. At an assumed VAT rate of 10%, the cost of exemption on government revenue would have been N76.48 billion and N89.66 billion on milk and drug in 2018 and 2019 respectively.

Figure 41:: Quantification of Revenue Losses Due to the Exemption of Milk and Pharmaceutical Products



4) The study concluded that the VAT exemption policy on these two largely consumed products (Milk and pharmaceutical products) results in huge revenue loss to Nigeria. Also, from the consumption data, the non-poor seems to benefit from the tax exemption more than the poor. However, the social impact of the removal of these commodities from the exemption list has not been fully evaluated.

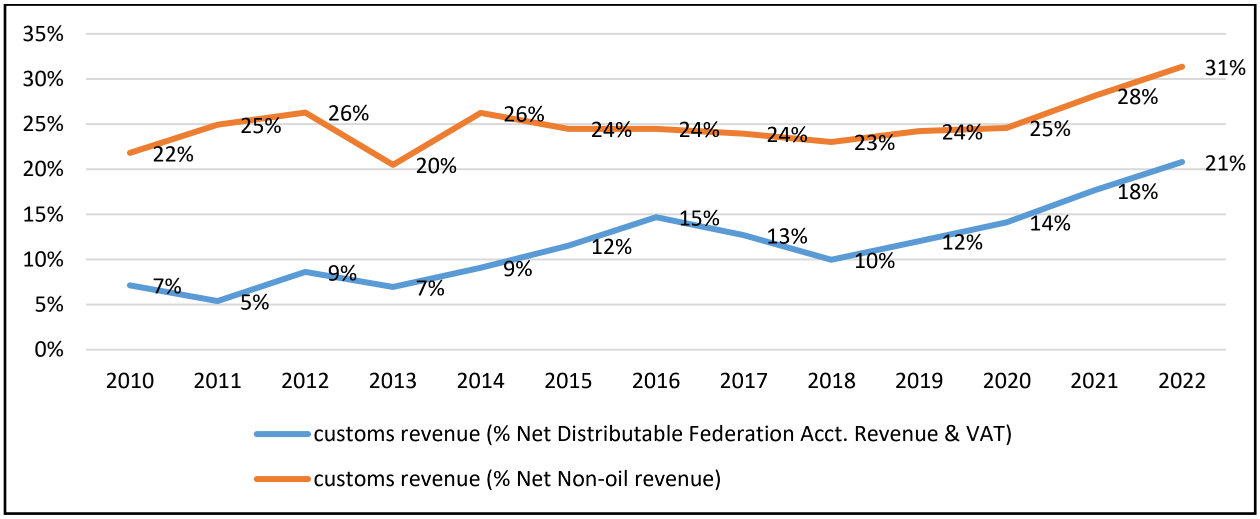
B. Trade Customs Incentives (Exemptions, Reductions and Credits)

2. Nigeria Trade (Customs) Incentives Analysis: 2010 to 2022

a. Analysis of Customs Revenue to Total Revenue

Customs revenue is classified under non-oil revenue in Nigeria. In recent times, since 2018 customs revenue to total Net Distributable Federation Account Revenue and VAT (NDFAR&VAT) and net Non-Oil Revenue (NNR) has trended upwards reaching 31% and 21% respectively. The share of customs revenue to NDFAR & VAT peaked at 15% in 2016 and declined to 10% in 2018, by the next four years, in 2022, it rose by 11% to 21%. In 13 years, that is between 2010-2022, customs remitted as revenue a total of ₦9,334,779,730,000 to the government purse which represents a little above one-tenth (11.8%) and one-quarter (25.7%) of NDFAR+VAT and NNR respectively. In 2022, customs remitted the highest revenue in over a decade of ₦1,687,651,000,000 compared to 2010 with the lowest revenue of ₦309,192,000,000 excluding VAT on import. Within the same period, customs revenue to net distributable Federation Account averaged 12%, rising by 13% from 7.1% in 2010 to 20.8% in 2022. In 2010, customs revenue remitted to the federation account amounted to ₦309,192,000,000 (that is, US$ 2,061,280,000 in 2010 dollar rates), and by 2022 it rose to ₦1,687,651,000,000 (that is, US$ 3,047,086,717.69 in 2022 rates). At the same time, customs revenue rose from 22% in 2010 to 31% in 2022 (See Figure 42).

Figure 42: Customs revenue (% of NDFAR+VAT and NNR)

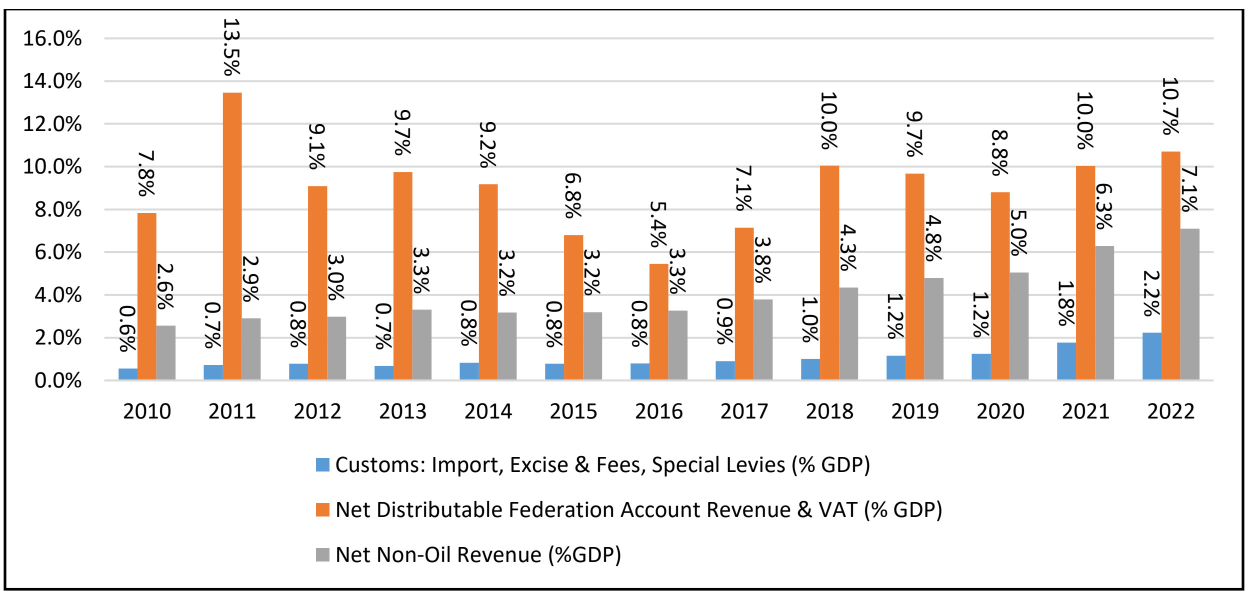


Source: Research Team's calculation from the CBN Statistical Bulletin, 2022.

As at 2022, NDFAR+VAT (that is, FG government revenue) to GDP was at 10.7% of GDP, while NNR and customs revenue were 7.1% and 2.2% of GDP respectively. Compare to previous years, revenue to GDP in Nigeria experienced its most significant increase in a decade in 2011 at 13.6% and then declined to 5.4% in 2016. Between 2011 and 2016, revenue to GDP declined consistently due to lower oil prices, resulting in the doubling of the general government deficit to about 3.7 percent of GDP in 2015. Exports dropped about 40 percent in 2015, pushing the current account from a surplus of 0.2 percent of GDP to a deficit projected at 2.4 percent of GDP. With foreign portfolio inflows slowing significantly, reserves fell to $28.3 billion at end-2015.

Although NDFAR+VAT has not maintained a steady rise across the years, NNR has continued to increase, rising from 2.6% in 2010 to 7.1% in 2022 driven by FIRS-administered taxes (see Figure 43). Government policies have also contributed to the growth experienced in the non-oil sector. The Nigeria Zero Oil Plan was approved in 2016; before this year, non-oil revenue growth averaged 4.3% between 2010-2016. However, between 2017 and 2022, average non-oil revenue grew by 14%. This is follows government implementation of its non-oil revenue generation strategy in the succeeding Economic Recovery and Growth Plan (ERGP) (2017-2020) and partly the National Development Plan (2021-2025).

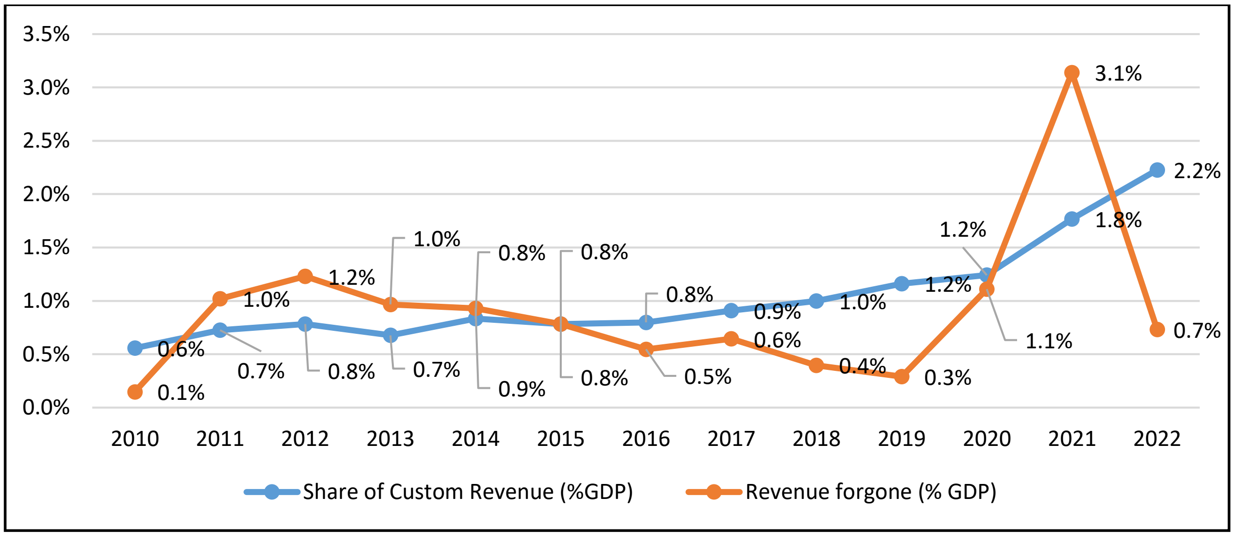
Figure 43: Customs revenue, NDFAR+VAR, NNR (% GDP)



Source: Calculations from NCS and CBN data

Customs revenue to GDP ratio maintained an upward trend between 2010-2022, showing a cyclic relationship with customs revenue forgone to GDP. As presented in the Figure 44, customs revenue as a percentage of GDP rose from 0.6% in 2010 to 2.2% in 2022. However, customs revenue forgone to GDP has shown a cyclical relationship to customs revenue to GDP, exhibiting a business cycle effect across the years. Revenue forgone to GDP rose from 0.1% in 2010 to 1.2% in 2012 by 2015 it declined to 0.8% equating the customs to GDP share of that year.

Figure 44: Share of Customs Revenue and Revenue Forgone to GDP



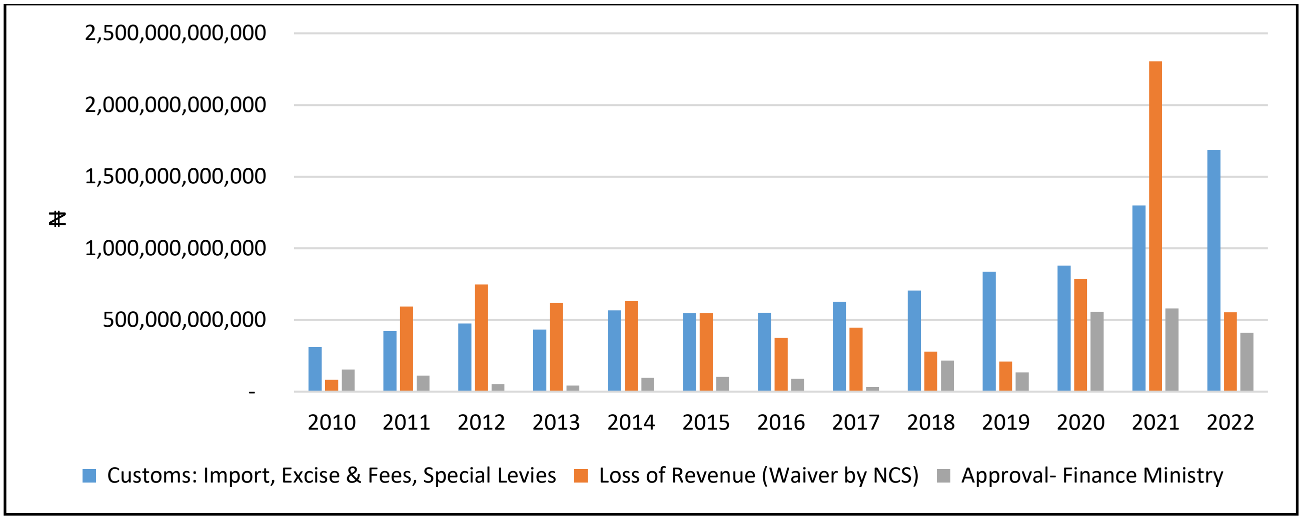
Source: Calculations from NCS and CBN data

By 2016 in wake of the economic recession, customs revenue forgone had decrease further to 0.5% lower than 2010 figure. By the next 5 years, revenue forgone spikes to 3.1% - the highest since 2010. Currently, with the increasing revenue coming customs, the share of forgone revenue to GDP has almost decrease to what it was in 2010.

b. Share of Revenue Forgone to Total Customs Revenue

Within the last decade, customs revenue has been higher than waivers granted or approved (see figure 45). Although waiver approval has traditionally been lower than overall customs revenue, granted or amount forgone which has been greater than approval has been less than customs revenue. Between 2010 to 2022, customs revenue rose above waiver approvals signed by the Finance Ministry. In 2010, while customs generated around ₦309,192,000,000 and implemented a waiver of ₦82,011,711,081, the finance ministry approved a waiver to the tune of ₦153,148,049,617. In 2021, customs implemented waivers rose faster than its revenue due to new areas of waiver granted including the waivers for COVID-19 materials. With Post COVID recovery, revenue has been growing rising from ₦1,297,998,000,000 in 2021 to ₦1,687,651,000,000 in 2022.

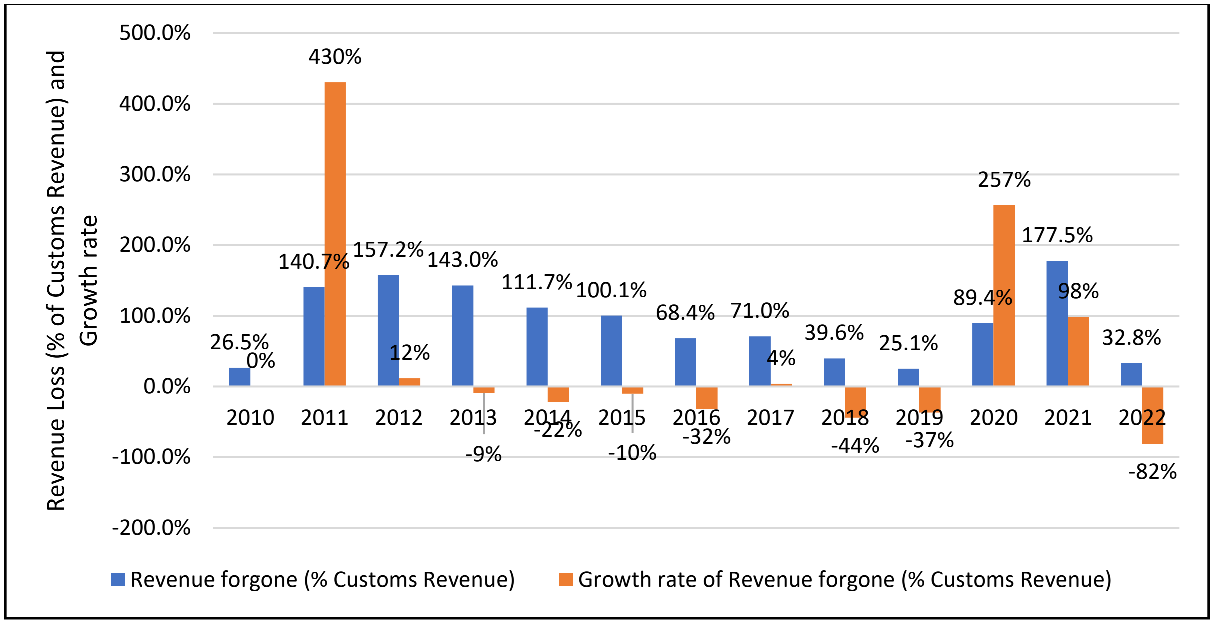
Figure 45: Comparing Customs revenue, Waiver and Customs Revenue Lost (Waivered)



Source: Calculations from NCS and CBN data

Whereas customs revenue continues to trend upwards, government will have to reevaluate the amount forgone. Between 2010-2022, the share of customs revenue forgone to total customs revenue collected in the last ten years averaged 91% and grew at an average of 44% year on year. Within this period under review, customs have administered waivers which was well above (100%) when compared to the total customs revenue collected in a single year (see figure 46). The highest was in 2021, when the total waiver amount relinquished by customs reached 2.3 trillion representing 177.5% of total collections of N1.2 trillion. In fact, between 2011 and 2015, the revenue forgone was equivalent to 652.6% which was 140.7% in 2011, 157.2% in 2012, 143% in 2013, 111.7% in 2014 and 100% in 2015. In 2022, the share of revenue forgone due to waiver to total revenue collected began to decline declining to 32%, albeit lower than the 2011 level. However, in 13 years, the share of custom revenue forgone to total customs revenue grew by 44% on average driven by forgone duties expended in 2011 and 2021- the years where growth in forgone revenue was highest.

Figure 46: Share of customs duty forgone to total revenue



Source: Research Team calculation from Nigeria Customs Service Data and Central Bank of Nigeria (CBN) Statistical Bulletin, 2022.

c. Analysis of the impact of Customs incentives on Customs Revenue, Trade and Investment

Using the regression result, a partial equilibrium analysis was conducted to determine the impact of Customs and FIRS Revenue on NDFAR+VAT using monthly data from January, 2010 to December, 2022. See table 37.

Table 37: Regression result of NDFAR+VAT on Customs and FIRS revenue (Jan.2010-Dec.2022) – Monthly Data

Models	**Customs Revenue**	**FIRS Revenue**	**7% collection cost**	**NCSFIRS Revenue Collection Cost**
NDFAR+VAT[8] (Scenario 1)	3.75154 (2.64e-012) ***	0.38823 (0.1398) *	#0.6 (<0.001) *	#0.5 (<0.001) *
NDFAR[9] (Scenario 2)	0.1 (0.004) *	0.1 (0.17)	-0.08 (0.003)	-0.3 (0.003) *

[8] NDFAR+VAT less Customs and FIRS revenue
[9] NDFAR+VAT including customs and FIRS revenue

Trade openness[10]	#0.8 (<0.001) *	0.2 (0.0003)	#0.5 (0.24)	#0.8 (0.38)
Terms of Trade	-0.2 (<0.001) *	-0.2 (<0.001)	0.1 (0.68)	-0.2 (0.25)
Trade Balance	0.2 (<0.001) *	0.2 (0.01) *	#0.7 (<0.001) *	0.3 (0.005) *
Real GDP				
Foreign Direct Investment				

*Note # refers to strongly correlated relationship; +Some data are missing; T-test p-value in parenthesis * Significant at 10% alpha level ** Significant at 5% alpha level *** Significant at 5% alpha level*

Source: Research Team Analysis

Table 38 presents the OLS result of customs and FIRS information as both represents government revenue generation via non-oil collected at the borders and domestically. To determine the impact on the trade and domestic tax environment on customs revenue and trade and investment, the following dependent variables indicators were selected: customs revenue, NDFAR less VAT, Trade openness, Net barter terms of trade index, Real GDP and FDI. The result shows that customs duty incentives have some positive impact on customs revenue. Therefore, a one percent increase in customs duty incentives will lead 0.04% increase customs revenue which is found to be significant at 5%. This implies that government policy aimed at moderately sustaining customs duty incentives are important if the country aims to increase customs revenue.

Table 38: Regression result of Custom Revenue on Customs Duty Incentives, value of import and 7% NCS collection Cost (2010-2022)

and 7% NCS collection Cost (2010-2022)

Models	**Customs Duty Incentives**	**Value of Import**	**7% NCS Collection Cost**	**FIRS Revenue**
Custom Revenue	0.0473 (0.0427**)	0.0817 (0.5498)	0.731528 (0.0264**)	

[10] Trade openness refers to the orientation of a country's economy in the context of international trade. The degree of openness is measured by the actual size of registered imports and exports of an economy. Trade openness is an expression of how free or how strictly it is in countries' trade relations with the outside world.

Customs Revenue/GDP			
NDFAR less VAT	0.1 (0.004) *	-0.08 (0.003)	-0.3 (0.003) *
Trade openness[11]	0.03043 (0.1256)	0.0817 (0.5498)	0.92567 (0.0052***)
Net barter terms of trade index (2000 = 100)	-0.2 (<0.001) *	0.1 (0.68)	-0.2 (0.25)
Trade Balance	0.2 (0.001) ***	#0.7 (0.001) ***	0.3 (0.005) ***
Real GDP	0.0477 (0.1794) *	-	-
Real GDP Aviation	0.0919 (0.3083)	-	-
Real Agriculture GDP	0.057999 (0.2326)		
Employment	(0.38) (0.6538)	-	-
Agriculture Employment	0.0579 (0.2326)		

*Note # refers to strongly correlated relationship; +Some data are missing; T-test p-value in parenthesis * Significant at 10% alpha level ** Significant at 5% alpha level *** Significant at 1% alpha level*

Source: Research Team Analysis

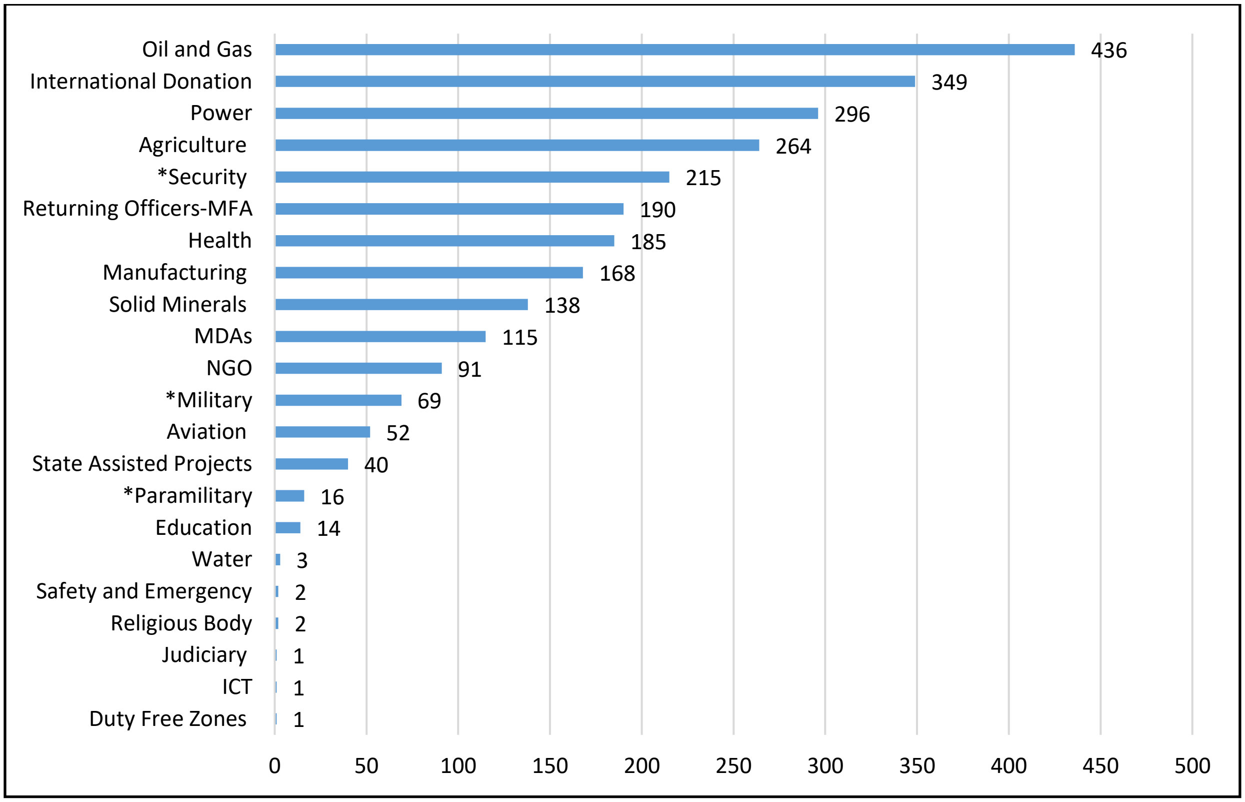
d. Custom Duty Waiver Approval and Granted in Nigeria

Over the years, Nigeria has applied several tariff incentives in the form of import duty waivers, ranging from full import duty waiver to partially duty reduction. These incentives are an exemption from taxation or a reduction in the tariff rates for specific imported goods. Within the last five years, the type of tax waived on import to Nigeria has included whole import duty, 50% import duty rebate, 1% Comprehensive Import Supervision Scheme (CISS), 0.5% ECOWAS Trade Liberalization Scheme (ETLS), Port charges and Value

[11] Trade openness refers to the orientation of a country's economy in the context of international trade. The degree of openness is measured by the actual size of registered imports and exports of an economy. Trade openness is an expression of how free or how strictly it is in countries' trade relations with the outside world.

Added Tax (VAT). Available information shows that between August 17, 2016 to 31 December 2022, a total of 2648 applications were made requesting for tariff waiver from the Finance Ministry. A total of 436 applications were made by oil and gas firms in Nigeria - the highest applications in 6 years. Apart from oil and gas firms, top four applications for duty waiver were received from international donations (349 applications), Security comprising Security, Military and Paramilitary (300 applications), Power (296 applications), and agriculture (264 applications) (see figure 47). Of these, 99.8% representing 2643 of all applications had their requested approved, while 5 needed revalidations.

Figure 47: Total applications received for import duty waivers (August 2016 to December 2017)



* Refers to Security institutions, MFA refers to Ministry of Foreign Affairs. *Source*: Federal Ministry of Finance, Budget and National Planning

Yearly applications for duty waiver grew by 85% on the average between 2017 to December, 2022. It rose from 96 applications in 2017, to 220 applications in 2018. By 2019, total applications declined to 185 and picked up to 440 in 2020; 610 in 2021 and 1,090 in 2022 (see Table 39) The following were 3 peak applications in the last six years:

- In 2017, about 31 applications were received from health institutions – the highest import duty waiver applications for that year - followed by Returning Officers of the Ministry of Foreign Affairs (20 applications) and Power (15 applications).
- In 2018, 58 applications were received from international donations, 42 from power, and 39 from health institutions.
- In 2019, the Federal Ministry of Finance received 40 applications from International Donation, 31 from Power, and 22 from agriculture.
- In 2020, 84 applications came from MDAs, 74 from Non-Governmental Organizations (NGOs) and 41 from Agriculture and International Donations respectively.
- In 2021, 96 applications came from international donations, followed by 83 applications from oil and gas firms and 74 from agriculture.
- In 2022, 291 applications came from oil and gas firms, 168 from security and 116 from power.

Table 39: Total Import Duty Waiver Applications by Beneficiaries and Year (August, 2016-December, 2022).

	2016	2017	2018	2019	2020	2021	2022	Total
Agriculture	1	5	10	22	41	74	111	264
Aviation		1	1	1	17	27	5	52
Duty Free Zones		1						1
Education		4	4		4		2	14
Health	5	31	39	1	9	51	49	185
ICT			1					1
International Donation		7	58	40	41	96	107	349
Judiciary		1						1
Manufacturing		2		8	37	21	100	168
MDAs				20	84	11		115
Military			1	4	15	49		69
NGO				17	74			91
Oil and Gas			12	14	36	83	291	436
Paramilitary		1		6	3	6		16
Power	1	15	42	31	32	59	116	296
Religious Body		1	1					2

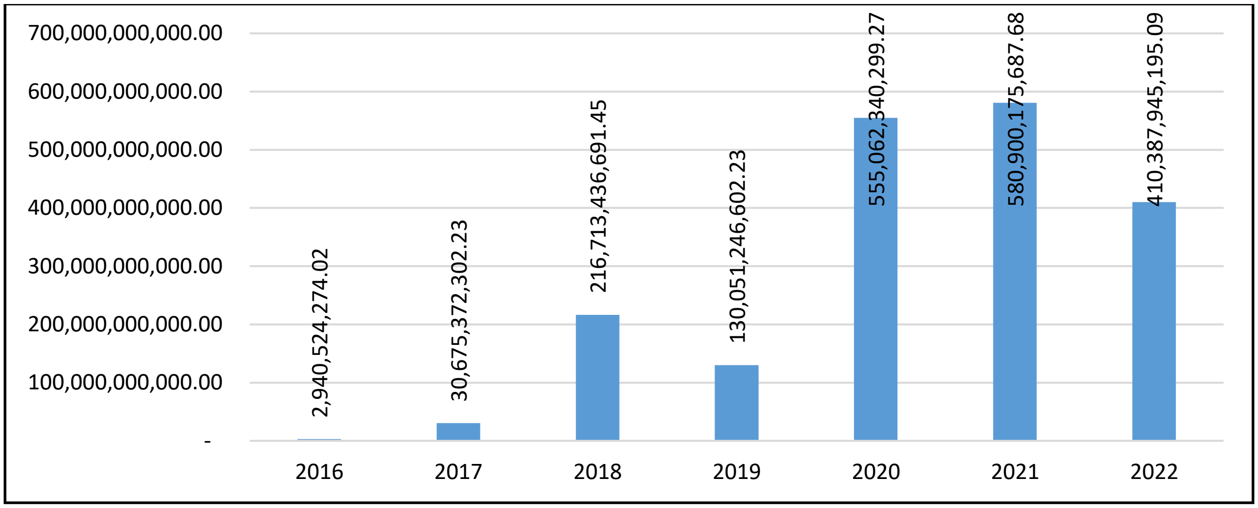
Returning Officers-MFA		20	33	6	2	70	59	190
Safety and Emergency		1	1					2
Security		3	10		5	29	168	215
Solid Minerals			5	3	29	28	73	138
State Assisted Projects			2	12	11	6	9	40
Water		3						3
Total	7	96	220	185	440	610	1090	2648

Source: *Federal Ministry of Finance, Budget and National Planning*

A total of ₦1,923,790,516,777.95 was approved by the Finance Ministry as import duty waiver between August 2016 and December 2022, while approved waiver grew by 173% on the average. COVID and post COVID year 2021, had the highest approval, representing more than half of total approval. In 2020, total approval was ₦555,062,340,299.27 and by 2021 it rose to ₦580,900,175,687 representing 28.8% and 30.2% of total approvals. By 2022, approval declined to ₦410,387,945,195.09 which is 21.3% of total approvals (see figure 48). By year, the following top 3 sectors had the highest approval (see Table 40).

- In 2017, the finance Ministry approved ₦16,917,764,922.08 for the health sector, ₦5,690,437,165.54 for Power and ₦4,914,600,755.13 for Manufacturing.
- In 2018, ₦75,744,766,484.04 was approved for oil and gas, ₦50,404,703,949.30 for power, ₦46,357,390,220.40 for international donation.
- In 2019, ₦27,035,019,354.32 was approved as import duty waiver for agriculture, ₦26,525,334,885.36 for international donation and ₦26,354,620,470.42 for power.
- In 2020, ₦287,192,461,041.72 was approved as waiver for the health sector, representing 42.9% followed by ₦95,529,522,411.77 for solid minerals and ₦93,484,760,371.22 for oil and gas.
- In 2021, about ₦287,192,461,041.72 was recorded as waiver approved for the health sector, ₦83,819,084,135.49 for power, and ₦58,733,956,078.12 for the military.
- In 2022, ₦139,065,135,622.77 was approved as waiver for international donation, ₦67,541,598,243.32 for security and ₦63,693,269,833.17 for power.

Figure 48: Approved Import Duty Waiver by Year and Sectors



Source: Federal Ministry of Finance, Budget and National Planning

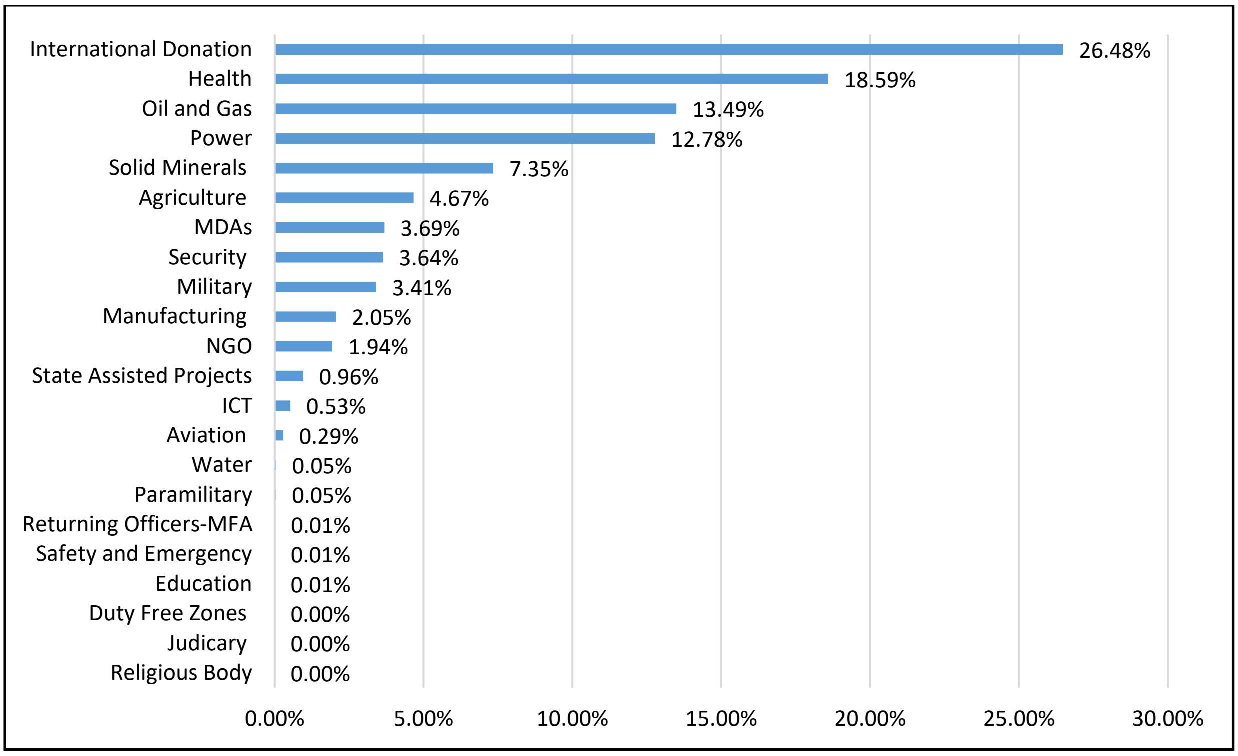
Table 40: Total Approved Nigeria Import Duty Waiver

	2016	2017	2018	2019	2020	2021	2022
Agriculture	45,461,232.48	903,769,074.96	3,990,925,594.87	27,035,019,354.32	20,839,390,801.41	12,020,901,346.35	25,041,362,063.42
Aviation		16,837,165.45	23,122,742.63	1,547,067.50	2,457,362,847.37	1,522,495,539.63	1,522,831,210.80
Duty Free Zones		48,737,058.56					
Education		35,395,401.34	4,499,123.08		61,886,235.90		4,132,001.32
Health	2,864,163,448.04	16,917,764,922.08	28,601,144,999.11	141,032.96	1,155,170,279.28	287,192,461,041.72	23,801,374,707.71
ICT			10,200,667,735.92				
International Donation		998,750,902.81	46,357,390,220.40	26,525,334,885.36	238,383,328,251.79	58,055,304,099.07	139,065,135,622.77
Judicary		3,220,853.00					
Manufacturing		4,914,600,755.13		10,859,057,077.57	3,932,370,255.51	1,929,886,761.23	17,892,405,600.00
MDAs				15,490,169,490.13	38,392,743,504.50	17,137,362,562.82	
Military			260,400.00	539,264,984.79	6,307,929,459.59	58,733,956,078.12	
NGO				1,346,697,856.34	35,983,110,086.16		
Oil and Gas			75,744,766,484.04	19,436,772,385.43	93,484,760,371.22	25,284,290,975.73	45,637,639,562.44
Paramilitary		1,085,000.00		134,123,329.36	344,881,609.33	440,479,152.38	
Power	30,899,593.50	5,690,437,165.54	50,404,703,949.30	26,354,620,470.42	15,840,783,814.62	83,819,084,135.49	63,693,269,833.17
Religious Body		234,411.32	232,992.40				
Returning Officers-MFA		16,325,886.44	24,825,195.05	7,025,478.01	8,789,628.16	87,646,749.86	115,369,017.89
Safety and Emergency		54,838,350.00	56,267,200.00				
Security		58,673,504.65	926,703,140.13		238,967,891.22	1,291,473,729.05	67,541,598,243.32
Solid Minerals			107,289,431.93	51,193,529.95	95,529,522,411.77	22,702,403,551.09	22,941,739,389.41
State Assisted Projects			270,637,482.59	2,270,279,660.09	2,101,342,851.44	10,682,429,965.14	3,131,087,942.84
Water		1,014,701,850.95					

Source: Computation from the Waiver Approval Database, Federal Ministry of Finance, Budget and National Planning

Within the last 6 years, one quarter (25%) of total approved waiver went to international donation, 18.9% went to health, 13.4% to oil and gas, 12.7% to power and 7.3% to solid minerals (Figure 49).

Figure 49: Approved Import Duty Waiver (2017 and 2022)

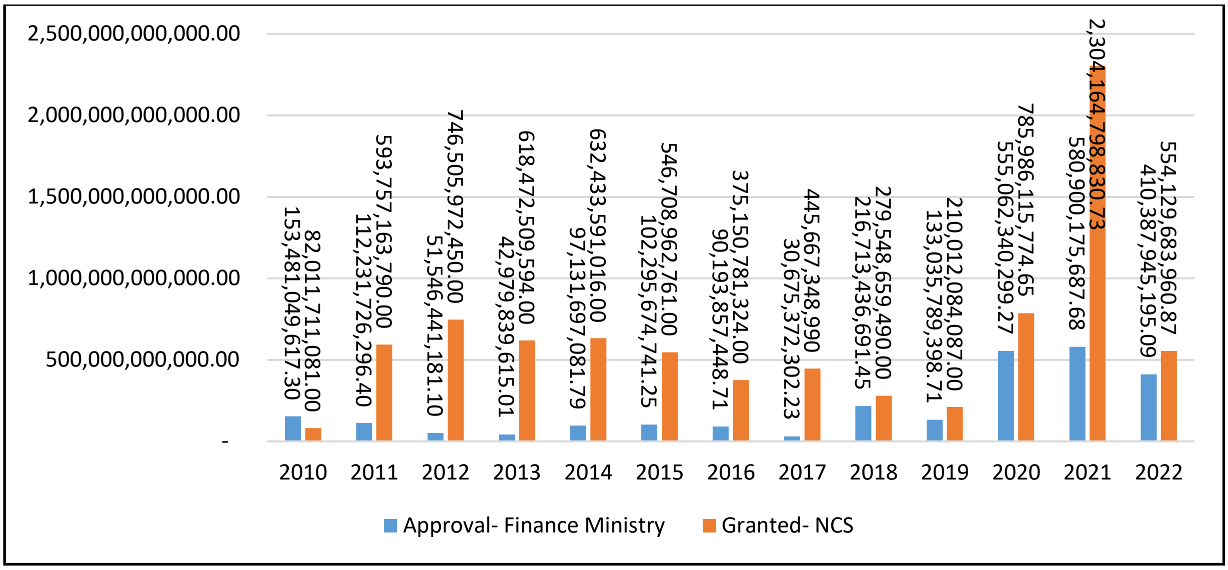


Source: Federal Ministry of Finance, Budget and National Planning

There is a disconnect between Customs duty approval and waiver granted by the Finance Ministry in Nigeria. While approvals for custom duty waivers or incentives are the prerogative of the Finance Ministry, implementations are usually done by the NCS. However, as presented in Figure 50 below, across the years, the granted of customs duty waiver or incentives have exceeded approval. Available information indicates that NCS, may be implementing more duty waivers not approved by the Finance Ministry. Except in 2010 when waivers approval exceeded implementation, in other years granted exceeded waivers. In 2011, the Finance Ministry approved ₦112,231,726,296 and NCS implemented five times this amount, that is, ₦593,757,163,790. Ten years after, in 2021, the NCS waiver granted jumped to at least four times the granted level in 2011 to ₦2,304,164,798,830 - highest in over a decade – while approval was ₦580,900,175,687

Several reasons have been proffered for the differences in customs duty waiver approval and implementation. One reason may be the closeness of the custom's operational activity to the Presidency over the years. Often the Presidency have given special directives to customs without the involvement of the Finance Ministry, without capturing this information, NCS data can overshoot that of the Ministry.

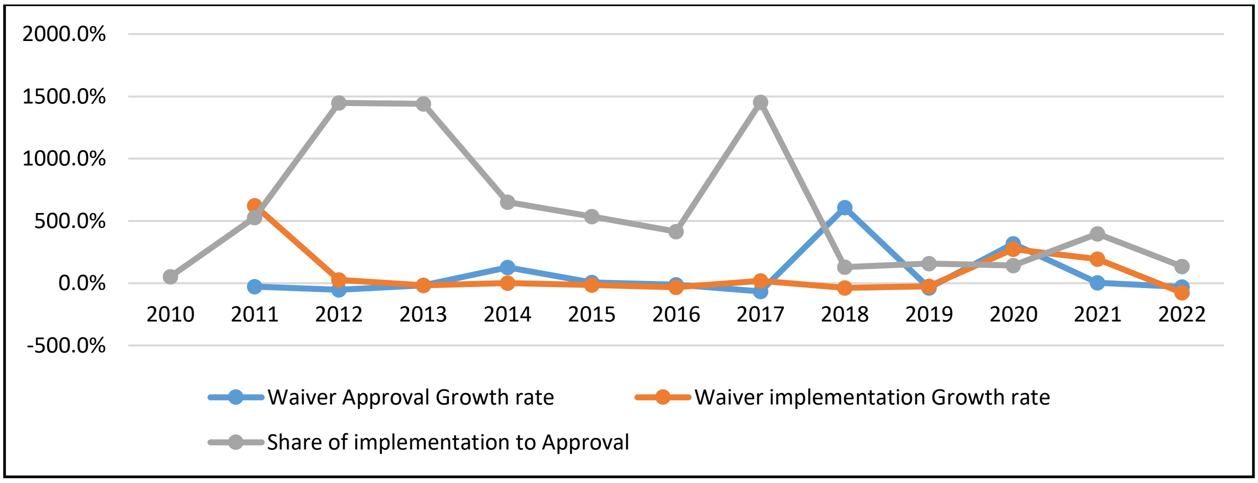
Figure 50: Custom Duty Waiver Approvals and Granted in Nigeria



Source: Calculation from Customs Waiver Database.

Waiver approvals and granted grew by 50% on average between 2010 and 2022. Within these periods, average waiver approval and granted growth stood at 68% and 78% respectively. As presented in Figure 51, Waiver approval grew from -26.9% in 2011 and peaked at 606.6% in 2018 and by 2022 it declined to 135%. In 2011, customs incentives granted peaked at 1448.2% and declined to -76% in 2022.

Figure 51: Growth rate and Shares of Waiver Approved and implemented



Although 2021 saw the largest disconnect between waiver approval and the amount granted, however, by shares 2012, 2013 and 2017 had the highest waiver granted to approval ratio. In these years, the ratio exceeded 1000%, that is 1448.2% in 2012, 1439% in 2013, and 1452.9% in 2017, which was twice the average share of 575.7% between 2010-2022.

d. Discussion on Sectoral Waiver Allocation

Table 41 and 42 shows waiver approved by the Federal Ministry of Finance on Agriculture between 2016 and 2022 which reflect discrepancies with those approved for implementation by the Nigeria Customs Service (NCS). While quantity implemented by the NCS may be lower than the figure approved by Finance, it is questionable and requires further interrogation of cases with wide figures of discrepancies.

Agriculture

Agriculture is an area that needed waiver to support the large number of farmers for mechanized farming to improve and increase productivity towards economic growth. Therefore, lower rate of implementation by the NCS means lower expected impact of the benefits of the waiver on agriculture. While the 2018 implementation figure is lower than the approved figure by Finance, 2019 was extremely wide. The lower figures for 2020 and 2021 may be understandable because of COVID-19 disruption of activities. We can see an impressive improvement in 2022.

Returning Officers

The above table 41 and 42 show wide discrepancies in figures approved by the Federal Ministry of Finance (FMoF) and that implemented by the NCS for Returning Officers of the MFA between 2016 and 2022. The nature of the import may require further interrogation and relevance to the growth of national economy. However, it is more important to establish the effectiveness in the management of waiver regime by the institutions responsible for approval and implementation. What is the basis for higher figure in waiver approved for implementation by the NCS and the figure approved by the FMoF.

Religious Body

While figures approved by the FMoF are not reflected, figures approved for implementation by the NCS are indicated. The question arises on how NCS implemented without approved figures by the FMoF. Also, where figures approved by the FMoF are known, the figures implemented by the NCS are higher. The impact of these waivers benefiting religious body on the economy is yet to be identified. However, it is relevant to interrogate the transparency in the management of the waiver regime as figures by the approving authority is lower than that by the implementing agency.

Power Sector

Power sector is a crucial area in the Nigerian economy and the impact of waiver in this sector on the national economy cannot be overemphasized. It is surprising that records of approvals by the FMoF are available while that implanted by the NCS are missing. Can we rightly conclude that the beneficiaries did not access the waivers? Further interrogation may be required in this sector. Low electricity supply has tremendously affected the Nigerian economy as the productive sector is operating at low capacity and therefore requires the waiver for active role in national growth. Lack of record of implementation by the NCS needs to be confirmed for further analysis.

Oil and gas sector

Oil and gas sector seems to play most important role in the Nigerian economy and therefore waiver management in this sector should be more effective and efficient. Approvals granted by the FMoF are widely lower than that implemented by the NCS. Further interrogation and confirmation of the transparency in the implementation of the waivers in this sector would be required. Inefficient management of waiver in this sector may be linked to the inefficient operations and subsidy regime. An effective review of waivers in this sector can help improve the observed shortcomings. Therefore, the wide discrepancies in the figures between the FMoF and the NCS should be explained by the two institutions.

Paramilitary institution and the Military

The NCS is a paramilitary institution and therefore may be included in the list of beneficiaries in this sector. While there are questions to ask about some discrepancies in the figures above, the most curious is the approved figure by the FMoF far less than the figure implemented by the NCS in 2021. Further interrogation of this discrepancy is necessary.

Military spending has been on the increase and generated lot of concerns in Nigeria, especially as government spending is lower in other key areas like education and health. NCS implementation is widely different from the FMoF approved record in 2018, 2019 and 2020. No approved record by the Ministry in 2022 but the NCS implemented a higher figure. Military is a sensitive area and waiver in this direction should be properly accounted for to ensure that military requirements were utilized in the right and transparent direction. A high figure in military waiver should correspondingly result to better security but the benefits are not clearly justifying the expenditure.

Manufacturing Sector

Manufacturing is key to national economic development and waiver in this direction must be transparent. COVID-19 period, and post-COVID-19 indicate a wide discrepancy in the figures between the FMoF and the NCS. The effectiveness of the manufacturing sector has a directly impact on employment. There is a need to further interrogate the beneficiaries of waivers in this sector in relation to figures implemented by the NCS and poor performance of the economy.

Aviation Sector

The discrepancies observed here between the figures approved by the FMoF and the figure implemented by the NCS is not as wide as other sectors. Therefore, there seems to be more transparency in this sector and has reflected in the effective operations of the airlines related to safety. The recent concerns in the aviation sector are related to currency exchange instability, which may further require more waivers to support the sector.

Duty Free Zones

Duty free zones are economic locations to strengthen the national economy through foreign direct investment (FDI). Waivers in this sector should stimulate the economy if properly applied. Not many records are generated as shown in the table and, where records are indicated, we cannot see harmonization in the actions by the FMoF and the NCS. For this important sector, there is a need to ensure harmonized actions by the approving and implementing authorities.

Education sector

This important sector failed to utilize optimally the waiver granted in 2017 while there are discrepancies in other years between the records obtained from the FMoF and the NCS.

Health Sector

The huge figure in the waiver granted in 2020 is understandable under the COVID-19 pandemic. However, the low utilization cannot be related to the health needs during the period. Nonetheless, there seems to be more discipline in this sector in figures granted by the approving authority and the implementation authority. Approved figures are mostly higher except for 2018.

International donation

Waivers for international donation are normal as donors will avoid border taxes for support to a country, including Nigeria. However, the wide discrepancies in the records of the approving authority and the implementing agencies are not normal, especially for 2017 and 2021.There is a need to further interrogate the differences in the figures.

MDAs

The two authorities in the management of waiver belong to the MDAs and therefore could have benefitted from the waivers in this sector. As observed earlier, we need to interrogate the discrepancies related to figures released by the FMoF and the NCS. Also, where is the authority of the NCS to implement approvals not supported by records from the FMoF? In 2017, the NCS implemented huge figure for waiver without record of the approval by the FMoF. The lack of transparency is a source of great concerns with the resultant negative impact on the economy.

Table 41: Comparison of Waiver Approval and Granted by the Federal Ministry of Finance, Budget and National Planning and Nigeria Customs Services (Part A)

Year	Fiscal Items	Agriculture	Returning Officers-MFA	Religious Body	Power	Oil and Gas	Paramilitary	NGO
2016	Waiver Approval- Finance Ministry	45,461,232.48			30,899,593.50			
	Waiver Granted- NCS		2,723,843,333.00	34,539,326.00		242,528,405,821.00	46,525,479.00	5,912,221,730.00
2017	Waiver Approval- Finance Ministry	903,769,074.96	16,325,886.44	234,411.32	5,690,437,165.54		1,085,000.00	
	Waiver Granted- NCS		2,134,117,450.00	7,963,816.00		255,644,769,730.00	4,098,591,677.00	8,996,345,387.00
2018	Waiver Approval- Finance Ministry	3,990,925,594.87	24,825,195.05	232,992.40	50,404,703,949.30	75,744,766,484.04		
	Waiver Granted- NCS	695,035.00	789,921,819.00	5,833,870.00		211,843,313,203.00	336,770,224.00	1,556,895,031.00
2019	Waiver Approval- Finance Ministry	27,035,019,354.32	7,025,478.01		26,354,620,470.42	19,436,772,385.43	134,123,329.36	1,346,697,856.34
	Waiver Granted- NCS	1,496,955.00	337,140,018.00	16,504,076.00		169,747,704,182.00	37,737,540.00	19,545,619,041.00
2020	Waiver Approval- Finance Ministry	20,839,390,801.41	8,789,628.16		15,840,783,814.62	93,484,760,371.22	344,881,609.33	35,983,110,086.16
	Waiver Granted- NCS	2,100,272.00	357,897,172.00	1,900,559,611.00		203,095,285,184.00	304,568,909.00	6,665,523,856.00
2021	Waiver Approval- Finance Ministry	12,020,901,346.35	87,646,749.86		83,819,084,135.49	25,284,290,975.73	440,479,152.38	
	Waiver Granted- NCS	1,386,727.00	1,090,656,926.00	869,615,440.00		143,694,071,781.00	12,647,094,946.00	7,725,523,573.00
2022	Waiver Approval- Finance Ministry	25,041,362,063.42	115,369,017.89		63,693,269,017.89	45,637,639,562.44		
	Waiver Granted- NCS	6,053,810.00	1,323,252,260.00	524,046.00		305,270,242,178.00	5,684,261,129.00	16,183,419,103.00

Source: Analysis computed from Federal Ministry of Finance and Nigeria Customs Database

Table 42:Comparison of Waiver Approval and Granted by the Federal Ministry of Finance, Budget and National Planning and Nigeria Customs Services (Part B)

Year	Fiscal Items	Military	Manufacturing	Aviation	Duty Free Zones	Education	Health	International Donation	MDAs
2016	Waiver Approval- Finance Ministry						2,864,163,448.04		
	Waiver Granted- NCS	4,707,228,049.00		242,685,864.00		633,538.00	77,369,868.00	58,909,215,627.00	59,968,112,689.00
2017	Waiver Approval- Finance Ministry		4,914,600,755.13	16,837,165.45	48,737,058.56	35,395,401.34	16,917,764,922.08	998,750,902.81	
	Waiver Granted- NCS	51,514,237,343.00		2,022,896,549.00		278,373.00	264,644,289.00	29,502,272,180.00	92,859,134,507.00
2018	Waiver Approval- Finance Ministry	260,400.00		23,122,742.63		4,499,123.08	28,601,144,999.11	46,357,390,220.40	
	Waiver Granted- NCS	1,556,895,031.00		630,700,011.00		201,898.00	79,668,322.00	17,341,955,216.00	38,814,663,129.00
2019	Waiver Approval- Finance Ministry	539,264,984.79	10,859,057,077.57	1,547,067.50			141,032.96	26,525,334,885.36	15,490,169,490.13
	Waiver Granted- NCS	19,545,619,041.00		89,905.00			33,120,367.00	12,208,270,049.00	65,517,326.00
2020	Waiver Approval- Finance Ministry	6,307,929,459.59	3,932,370,255.51	2,457,362,847.37		61,886,235.90	1,155,170,279.28	238,383,328,251.79	38,392,743,504.50
	Waiver Granted- NCS	24,412,716,271.00	527,526,566,450.65	10,818,199.00		3,362,647.00	4,638,705.00	21,662,236,151.00	30,441,194.00
2021	Waiver Approval- Finance Ministry	58,733,956,078.12	1,929,886,761.23	1,522,495,539.63			287,192,461,041.72	58,055,304,099.07	17,137,362,562.82
	Waiver Granted- NCS	43,748,276,797.00	1,746,204,630,868.73	3,359,797,731.00	390,901,610.00		2,959,111,136.00	341,409,895,056.00	45,657,372.00
2022	Waiver Approval- Finance Ministry		17,892,405,600.00	1,522,831,210.80		4,132,001.32	23,801,374,707.71	139,065,135,622.77	
	Waiver Granted- NCS	16,078,851,182.00	189,188,743,308.87	3,594,939,756.00	323,894,226.00	26,274,382.00	400,618,204.00	13,482,477,467.00	18,281,089.00

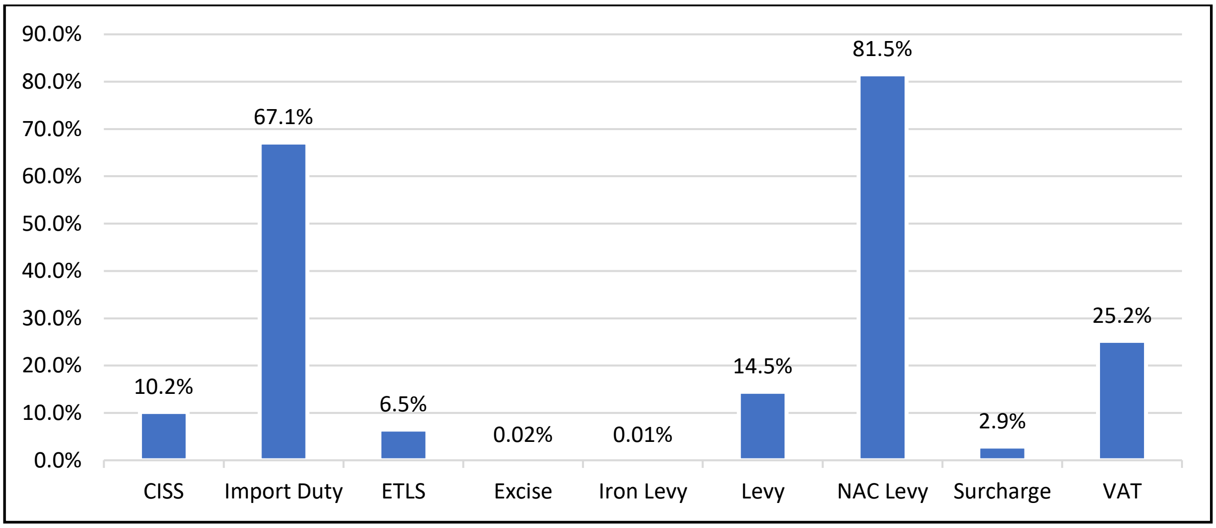
Source: Analysis computed from Federal Ministry of Finance and Nigeria Customs Database

e. Nigeria Trade Taxes and Levy

NAC levy and Import Duty are the largest trade tax incentives in the form of waivers granted to importers by the NCS between 2019 to 2022 followed by VAT on Imports. In Nigeria, as in other parts of the World, taxes and levies are imputed on the cost of goods brought into the country, whether they are commercial or non-commercial items. At least there are nine of these taxes and levies that are charged on imports. However, for several reasons, the government may decide to waive these taxes and levies, whether as exemptions, concessions, or in the form of credit.

Within the four years, that is 2019-2022, 81.5% of all taxes and levies waivered by the NCS, was the National Automotive Council (NAC) levy, 67.1% was import duty and 25.2% was VAT on Import (See Figure 52). The NAC Levy, which charges between 15% and 20% on used and new vehicles respectively was to encourage locally manufactured vehicles as well as encourage Nigerians to go for Nigerian-assembled vehicles. Between 2019 to 2022, a total of ₦1,420,466,005,918 was granted as waivers for NAC levy with 2020 and 2021 having the highest waivers of ₦1,082,191,169.00 and ₦1,419,135,090,286.89 respectively. Furthermore, at least 67.1% of all taxes waived was on import duty; total import duty waivered in four years was ₦1,169,435,357,120 with 2021 having the highest waived import duty- the year with the largest granted waivers in over a decade (Table 52).

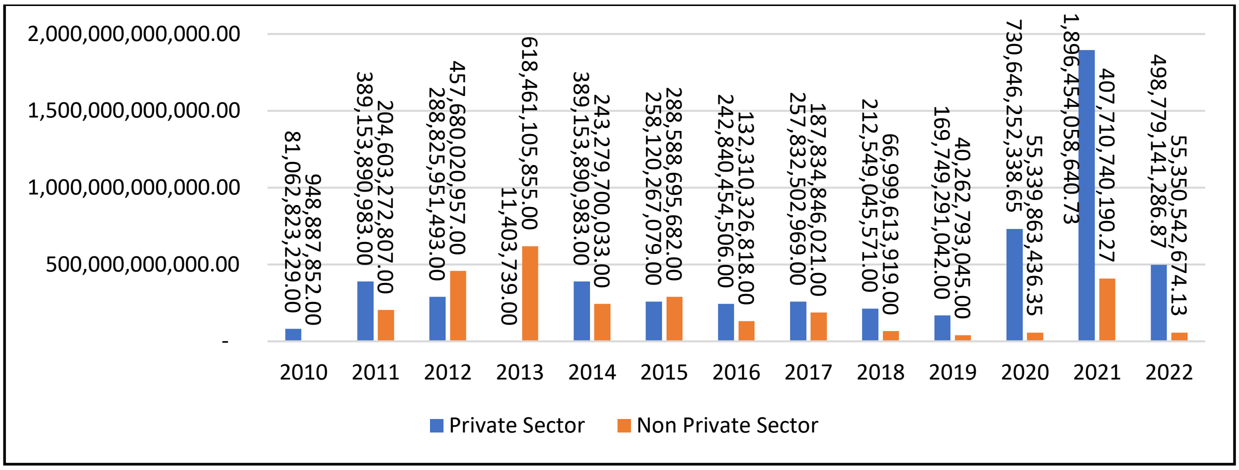
Figure 52: Share of Trade Tax incentives (2019-2022)



Source: NCS Database, 2019-2022.

The private sector has remained the major recipient of customs duty waivers in Nigeria since 2014. A total of ₦5,415,178,973,860.25 was granted as a customs duty waiver to the private sector in 13 years, which is more than twice (that is, ₦2,759,370,409,289.75) of the amount granted to non-private sector institutions. The non-private sector includes individuals and institutions comprising Goods imported for the President Commander-in-Chief of the Federal Republic of Nigeria, Diplomatic Privileges, goods imported for Consular Officers, goods obtained free as technical assistance from donors international, Personal Effects, Lifesaving appliances, Military Hardware & uniforms, Arms & ammunition imported by NPF, NCS & other para-military services, Churches & Mosques and ECOWAS. The average waiver received by the private sector in 13 years was ₦416,552,228,758.48 compared to what went to the non-private sector which is ₦212,259,262,253.06. Since 2020 the private sector has received more import waivers than the previous years, rising from ₦730,646,252,338.65 in 2020 to ₦1,896,454,058,640.73 in 2021 and ₦498,779,141,286.87 in 2021 (Figure 53).

Figure 53: Customs Duty Waiver Granted to the Private and Non-Private Sector (in Naira (₦))



Source: NCS Database, 2019-2022.

f. Drivers of Nigeria Trade Tax (and Levy) incentives

It is necessary to undertake an item analyse of trade taxes and levies incentives in Nigeria to understand the distribution of trade taxes. Performing this analysis gives a clearer understanding of the institutions or individuals getting such incentives by sectors, country of origin or supply. For instance, understanding the origin of supply (as contained in the NCS) will show the extent Africa imports into Nigeria are incentivize compare to goods imported from outside the continent.

1. 1% Comprehensive Import Supervision Scheme (CISS)

The government established the comprehensive import supervision Scheme (CISS) as a way to control and keep track of imports into Nigeria. It is intended to make sure that the imports entering the country adhere to a set of requirements for quality, value, and quantity. The NCS collects 1% CISS. In 2019, 1% CISS totalling ₦2,536,534,213 was waived (see table xx **).** Out this total CISS waivered, goods obtained free as technical assistance from international donors received the highest waiver of ₦1,458,247,265. This was followed by military hardwares and uniforms (₦692,996,307). Fuel, lubricants and similar products as approved by minister valued at ₦378,612,927 was also waiver as 1% CISS in 2019. Companies importing *Butane* received the highest 1% CISS in 2019. This is followed by other electric conductors, for voltage exceeding 1,000 V valued at ₦69,178,592. Butane is also a form of liquefied Petroleum Gas (LPG); it is highly flammable, colourless, easily liquefied gas that quickly vaporizes at room temperature and pressure. 1% CISS was also waived for goods imported for the President, C-in-C of the Federal Republic of Nigeria totaling ₦318,337 in 2019, with the highest waiver for importers importing from India. The major item under the presidential list considered for waiver were items containing penicillin or derivatives thereof, with a pen and Machinery for filling; capsuling bottles; machinery for aerating beverages valued at ₦56,861. (See Table 43)

Fuel, lubricants & similar products as approved by minister valued at ₦378,612,927 was waiver as 1% CISS in 2019. Companies importing Butane into Nigeria received the highest 1% CISS waiver in 2019. Butane is a form of liquefied Petroleum Gas (LPG); it is a highly flammable, colourless, easily liquefied gas that quickly vaporizes at room temperature and pressure.

While the least recipient of 1% CISS waiver in 2022 went to arms and ammunition (0.2%); and fuel, lubricants & similar products as approved by the Minister (0.4%), import duty exemption certificate received the highest CISS waiver of 95%. A further analysis of the data in 2022 shows that what drove import duty exemption by CISS was waiver issue to the health sector. Table 44 present the ranking of highest recipient of waiver by Import Exemption Certificate and 1% CIS. **Vaccines for human medicine** (₦400,583,021.59), followed by other ***medicaments not elsewhere specified*** received the highest waiver in value terms.

In recent times, importers of health-related commodities have received more 1% CISS waiver with Import Exemption Certificate (See Table 41)

Table 43: Waivered 1% CISS items Granted by NCS_2019 and 2022.

Items	Shares 2019	Shares 2022
Arms & ammunition imported by NPF,NCS & other para-military services	-	0.2%
Fuel, lubricants & similar products as approved by Minister	14.9%	0.4%
Goods imported for the President, C-in-C of the Fed. Rep.	0.0%	0.0%
Goods obtained free as tech. assistance from donors international	57.5%	1.2%
Import Duty Exemption Certificate	-	95.9%
Lifesaving appliances	0.2%	0.0%
Military Hardware & uniforms	27.3%	2.1%
Non Standard VIN Consular Officers	-	0.0%
Non Standard VIN Diplomatic Privileges	-	0.1%
Non Standard VIN for The President	-	0.0%
Non Standard VIN Military Hardware	-	0.0%
Perishable Goods	0.1%	
Presidential initiative on COVID-19 relief supplies	-	0.0%
Grand Total	100%	100%

Source: Research Team Calculation from the NCS Database

Table 44: Top 20 Items receiving Import Duty Exemption Certificate exempted from 1% CISS

Ranking	Fiscal Item	CISS (₦)
1	Vaccines for human medicine	400,583,021.59
2	Other medicaments not elsewhere specified	343,456,547.27
3	Vaccines for human medicine	332,675,905.77
4	Other medicaments not elsewhere specified	317,425,561.24
5	Other medicaments not elsewhere specified	306,434,430.50
6	Other medicaments not elsewhere specified	301,581,978.75
7	Other medicaments not else where specified	284,950,357.20
8	Other medicaments not elsewhere specified	284,895,533.37
9	Vaccines for human medicine	226,738,587.45
10	Vaccines for human medicine	214,823,799.08
11	Other medicaments not else where specified	197,530,698.24
12	Other medicaments not else where specified	175,330,126.10

13	Diammonium hydrogenorthophosphate (diammonium phosphate)	171,465,021.68
14	Diammonium hydrogenorthophosphate (diammonium phosphate)	170,231,248.66
15	Vaccines for human medicine	165,620,486.57
16	Diammonium hydrogenorthophosphate (diammonium phosphate)	162,150,066.06
17	Vaccines for human medicine	152,969,909.40
18	Other medicaments not elsewhere specified	142,947,896.77
19	Other medicaments not elsewhere specified	138,256,802.91
20	Vaccines for human medicine	137,341,498.63

2. Import Duty

Import duty is a tax collected on imports by a country's customs authorities. A good's value will usually dictate the import duty. Depending on the context, import duty may also be known as a customs duty, tariff, import tax or import tariff. According to the information provided the NCS, fuel, lubricants & similar products as approved by minister valued at ₦102.5 billion received the highest import duty waiver in 2019 representing 85% of total import duty waiver. At least 10.9% of total import duty waiver implemented by the NCS was for the importation of military hardwares & uniforms and importing donors 0.1% got import duty waivers (Table 45).

Table 45: Distribution Import Duty Waivered implemented by NCS between 2019 & 2022

Items	Shares **2019**	Shares **2022**
Arms & ammunition imported by NPF, NCS & other para-military services	0.0%	1.1%
Diplomatic Privileges	2.5%	1.6%
Exemption of Import Duty and VAT on Commercial airlines.	-	0.0%
Fuel, lubricants & similar products as approved by minister	**85.0%**	**28.0%**
Goods imported for Consular Officers	0.0%	0.0%
Goods imported for the President, C-in-C of the Fed. Rep.	0.1%	0.0%
Goods obtained free as tech. assistance from donors international	1.3%	0.4%
Import Duty Exemption Certificate[12]	-	**60.7%**
Lifesaving appliances	0.0%	

[12] Note that Import Duty Exemption Certificate is not a product. However, in the customs service dataset it was lump together. At least an estimate 6000-line items were lump under IDEC

Military Hardware & uniforms	10.9%	7.4%
Non-Standard VIN Consular Officers	-	0.0%
Non-Standard VIN Diplomatic Privileges	-	0.4%
Non-Standard VIN for The President	-	0.0%
Non-Standard VIN Military Hardware	-	0.0%
Personal Effects	0.2%	0.3%
Total	100.0%	100%

Source: Research Team Calculation from the NCS Database

In 2022, the power sector was amongst the top ten recipient of import duty exemption certificates from government amounting to a total of ₦7,938,525,594.19.

Further analysis of the highest import duty waivers by tariff descriptors shows that top 10 import duty waivers for fuel, lubricant & similar products as approved by the Minister in 2019 was gas oil. At least ₦68.3 billion out of the total amount on fuel, lubricant and similar product of ₦102 billion was waivered for the importation of gas oil, followed by motor spirit (₦23.8 billion) and jet fuel (₦8.2 billion) (figure 54, panel 1). In 2022, the power sector led the top ten recipient of Import Duty Exemption Certificates from government valued at ₦7,938,525,594.19. Major power product granted waivers include: 1) other transformer not specified, having a power handling capacity not exceeding 1 kVA (₦3,494,746,253.63); 2) isolating switches and make-and-break switches (₦2,593,661,787.50); 3) automatic circuit breakers for a voltage of more than 72.5 kV (₦1,112,826,487.42); 4) liquid dielectric transformers, having a power handling capacity exceeding 10,000 kVA ₦737,291,065.64 (figure 55, panel 2).

Figure 54: Panel 1: Top 10 import duty waivers for Fuel, lubricants & similar products as approved by minister (₦) - 2019

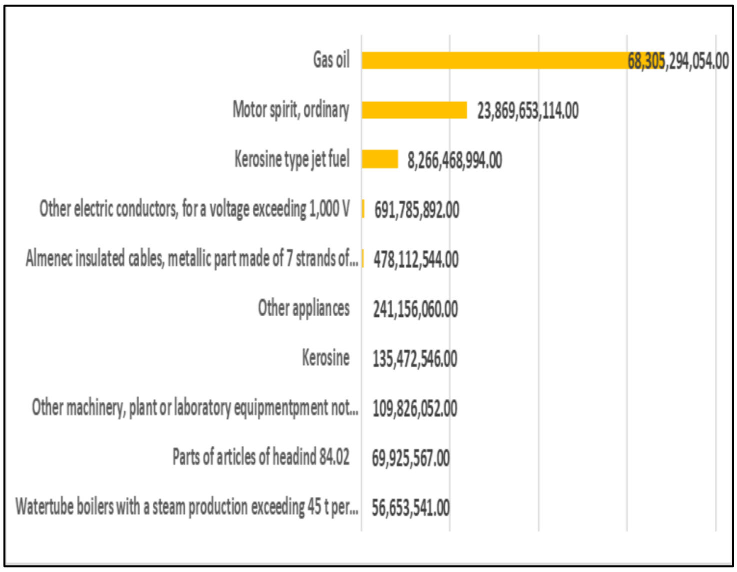
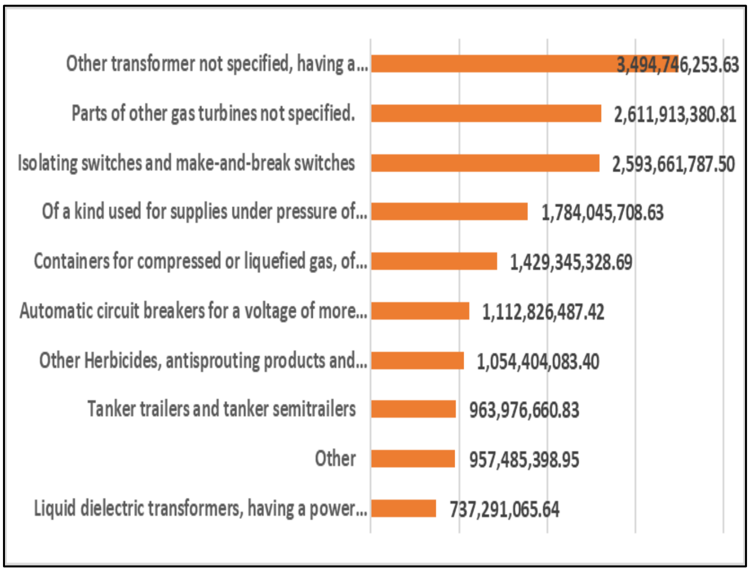


Figure 55: Panel 2: Top 10 items receiving Import Duty Exemption Certificate (₦) 2022[13]



Source: Research Team Calculation from the NCS Database

3. <u>ETLS Waiver</u>

Fuel, lubricants & similar products as approved by Minister has remained the dominate recipient of the ETLS waiver since 2019. In 2019, at least 73% of total ETLS waiver went to the importation of petroleum products. More than one-tenth (17%) of goods obtained free as technical assistance from donors international were given ETLS waiver. Imported military hardware & uniforms received 7% and Diplomatic privileges received 2% of all total ETLS waivers in 2019. By 2022, there was a shift in shares, Import Duty Exemption Certificate received almost half (48%) of all ETLS waiver; while fuel, lubricants & similar products as approved by Minister shared 45%. Diplomatic privileges received 2% (Table 46).

[13]Liquid dielectric transformers, having a power handling capacity exceeding 10,000 kVA
Other, Tanker trailers and tanker semitrailers, Other Herbicides, antisprouting products and plantgr, Automatic circuit breakers for a voltage of more than 72.5 kV, Containers for compressed or liquefied gas, of iron or steel., Of a kind used for supplies under pressure of cast iron, Isolating switches and make-and-break switches, Parts of other gas turbines not specified and other transformer not specified, having a power handling capacity not exceeding 1 kVA.

Table 46: Distribution of ETLS Waiver implemented by NCS between 2019 & 2022

Items	Shares 2019	Shares 2022
Arms & ammunition imported by NPF, NCS & other para-military services	0.0%	0.6%
Diplomatic Privileges	2.0%	2.1%
Fuel, lubricants & similar products as approved by Minister	73.1%	45.7%
Goods imported for Consular Officers	0.0%	0.0%
Goods imported for the President, C-in-C of the Fed.Rep.	0.0%	0.0%
Goods obtained free as tech. assistance from donors international	17.0%	0.9%
Import Duty Exemption Certificate	0.0%	48.5%
Lifesaving appliances	0.1%	0.0%
Military Hardware & uniforms	7.7%	2.0%
Non-Standard VIN Consular Officers	0.0%	0.0%
Non-Standard VIN Diplomatic Privileges	0.0%	0.0%
Non-Standard VIN Military Hardware	0.0%	0.1%
Personal Effects	0.1%	0.1%
Presidential initiative on COVID-19 relief supplies	0.0%	0.0%
Total	100.0%	100.0%

4. VAT Waiver

91% and 69% of all VAT waivers received in 2019 and 2022 were issue to importers of petroleum products

Further analysis of available data *shows that 91% and 69% (Table 47) of all VAT waivers received in 2019 and 2022 were issue to importers of petroleum products*. The following products: Almenec insulated cables, metallic part made of 7 strands of diameter 3.15mm and 3.55mm, Boards, panels, consoles...for electric control/distribution for a voltage =< 1,000 V; butanes; butt welding fittings material not specified, butt welding fittings of stainless steel, flanges of material not specified; flanges of stainless steel; Kerosine; Gas oil; Kerosine type jet fuel; Nucleic acids and their salts, whether Other; Metallic pipes of iron and steel; Motor spirit, ordinary. Table 44,45 and Figure 56, disaggregate the share of total Fuel, lubricants & similar products as approved by Minister.

Table 47: Distribution of VAT Waiver implemented by NCS between 2019 & 2022

Items	**Shares 2019**	**Shares 2022**
Aircraft, their parts & ancillary equipment. air-cond. plant, catering eqpt	0.0%	0.0%
Arms & ammunition imported by NPF, NCS & other para-military services	0.0%	1.1%
Church & Mosque	0.0%	0.0%
Diapers and sanitary products	0.0%	0.1%
Diplomatic Privileges	1.2%	1.1%
Exemption of Import Duty and VAT on Commercial airlines.	0.0%	0.3%
Fuel, lubricants & similar products as approved by Minister	90.6%	69.1%
Goods donated to charity	0.0%	0.0%
Goods imported for Consular Officers	0.0%	0.0%
Goods imported for the President, C-in-C of the Fed.Rep.	0.0%	0.0%
Goods obtained free as tech. assistance from donors international	1.0%	1.0%
Import Duty Exemption Certificate	0.0%	23.1%
Lifesaving appliances	0.0%	0.0%
Military Hardware & uniforms	7.0%	3.1%
Patterns & samples,cut,mutilated,spoilt, or otherwise unmerchantable	0.0%	0.0%
Non-Standard VIN Consular Officers	0.0%	0.0%
Non-Standard VIN Diplomatic Privileges	0.0%	0.1%
Non-Standard VIN for President	0.0%	0.0%
Non-Standard VIN Military Hardware	0.0%	0.2%
Non-standard VIN for churhes and mosques	0.0%	0.0%
Personal Effects	0.1%	0.3%
Plant & machinery imported for use by companies in EPZ	0.0%	0.2%
Presidential initiative on COVID-19 relief supplies	0.0%	0.0%
Scientific equipment, imported for public exhibition, study or res research	0.0%	0.0%
VAT exemption on some pharmaceutical products and selected companies	0.0%	0.2%
Total	100.0%	100.0%

Table 48: Share of Total Fuel, lubricants & similar products as approved by Minister

Fiscal Items	Total Waiver	Share
VAT_Butane_2022	388,639,154.00	0.40%
VAT_Gas Oil_2022	96,167,978,981.00	99.49%
VAT_Refined Crude	108,724,645.00	0.11%

Figure 56:Share of Total Fuel, lubricants & similar products as approved by Minister

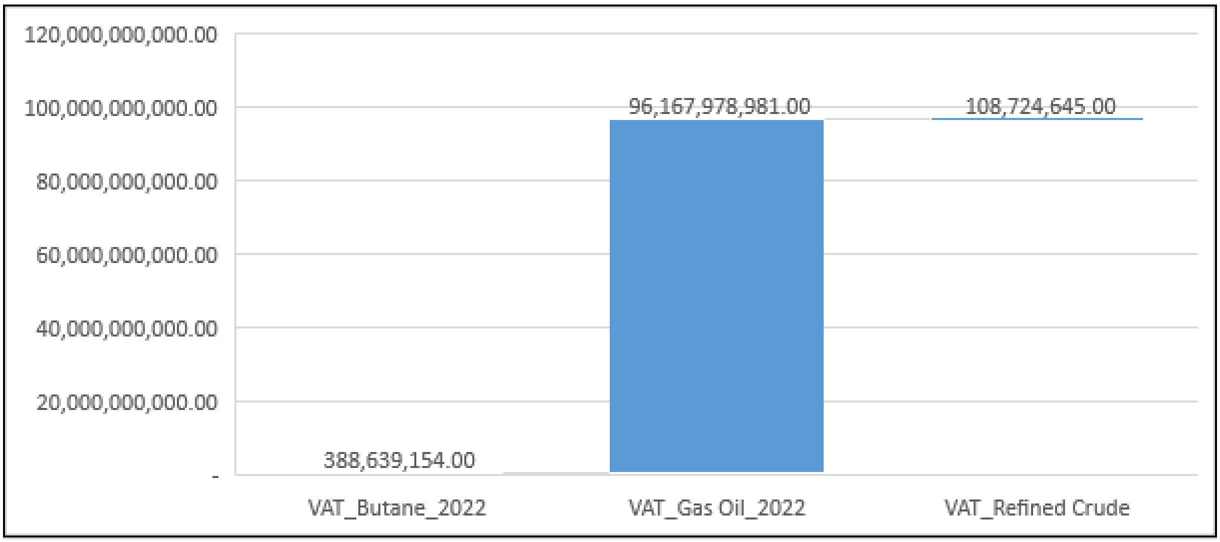


Table 49: Nigeria Trade Taxes and Levies incentives, 2019-2022

	2019	2020	2021	2022	Total
CISS	2,536,534,213	28,868,553,319.85	130,022,460,757.65	15,814,004,805.59	177,241,553,096
Import Duty	120,681,710,893	305,358,495,226.32	435,840,653,071.62	307,554,497,929.27	1,169,435,357,120
ETLS	4,740,154,457	19,252,911,788.26	72,895,459,890.02	16,388,104,774.60	113,276,630,910
Excise	-	-	-	296,544,636.00	296,544,636
Iron Levy	393,218	113,776.00	58,791,858.53	111,195,948.00	170,494,801
Levy	3,502,517,814	223,983,515,682.08	115,879.00	24,867,468,683.58	252,353,618,059
NAC Levy	233,567,157	1,082,191,169.00	1,419,135,090,286.89	15,157,305.00	1,420,466,005,918
Surcharge	8,160,317,618	21,276,263,719.79	42,075,470.00	20,884,171,838.83	50,362,828,647
VAT	62,136,770,688	179,497,220,038.35	30,370,056,026.27	167,177,386,606.59	439,181,433,359
Total	201,991,966,058	779,319,264,719.65	208,074,572,017.75	553,108,532,527.46	1,742,494,335,323

Table 50: Waiver Approval and Implementation: Growth and Shares

Year	Waiver Approval- Finance Ministry	Waiver Implementation- NCS	Difference between approval and Implementation	Approval Growth rate	Granted Growth rate	Share of Granted to Approval
2010	153,481,049,617.30	82,011,711,081.00	71,469,338,536.30	-	-	53.4%
2011	112,231,726,296.40	593,757,163,790.00	-481,525,437,493.60	-26.9%	624.0%	529.0%
2012	51,546,441,181.10	746,505,972,450.00	-694,959,531,268.90	-54.1%	25.7%	1448.2%
2013	42,979,839,615.01	618,472,509,594.00	-575,492,669,978.99	-16.6%	-17.2%	1439.0%
2014	97,131,697,081.79	632,433,591,016.00	-535,301,893,934.22	126.0%	2.3%	651.1%

2015	102,295,674,741.25	546,708,962,761.00	-444,413,288,019.75	5.3%	-13.6%	534.4%
2016	90,193,857,448.71	375,150,781,324.00	-284,956,923,875.29	-11.8%	-31.4%	415.9%
2017	30,675,372,302.23	445,667,348,990:00	-414,991,976,687.77	-66.0%	18.8%	1452.9%
2018	216,713,436,691.45	279,548,659,490.00	-62,835,222,798.55	606.5%	-37.3%	129.0%
2019	133,035,789,398.71	210,012,084,087.00	-76,976,294,688.29	-38.6%	-24.9%	157.9%
2020	555,062,340,299.27	785,986,115,774.65	-230,923,775,475.38	317.2%	274.3%	141.6%
2021	580,900,175,687.68	2,304,164,798,830.73	-1,723,264,623,143.05	4.7%	193.2%	396.7%
2022	410,387,945,195.09	554,129,683,960.87	-143,741,738,765.78	-29.4%	-76.0%	135.0%

Table 51: Stock taking of all trade incentives implemented by Customs

	2010-2013	2014-2017	2018-2022
	-	-	-
004 - Non-Standard VIN for The President	-	-	15,393,719.00
010 - Grants and aids	1,974,415,215.00	-	-
011 - On Government Import	32,778,052.00	-	-
014 - Non Standard VIN Diplomatic Privileges	-	-	1,188,115,787.00
024 - Non Standard VIN Consular Officers	-	-	110,770,867.00
027 - On personal effects	54,212,891.00	-	-
031 - On concession for petrolum	15,355,426,710.00	-	-
032 - Other Government concessions	7,555,350,166.00	-	-
040 - On Diplomatic Privileges	14,485,528.00	-	-
043 - Used Cars	100,900,904.00	-	-
044 - Used Trucks	3,246,553.00	-	-
064 - Non Standard VIN Military Hardware	-	-	1,362,243,030.00

104 - Non-standard VIN for churhes and mosques	-	-	278,151.00
400 - Goods imported for the President,C-in-C of the Fed.Rep.	41,225,401,087.00	2,095,158,982.00	158,615,414.00
401 - Diplomatic Privileges	24,449,467,516.00	97,263,473,597.00	35,993,747,551.00
402 - Goods imported for Consular Officers	166,547,954.00	658,273,587.00	90,138,741.00
403 - Goods obtained free as tech. assistance from donors international b	13,748,359,840.00	18,991,078,050.00	352,567,287,895.00
404 - Personal Effects	34,726,990,087.00	14,339,087,855.00	3,108,946,376.00
405 - Life saving appliances	239,186,260.00	194,649,801.00	225,224,863.00
406 - Military Hardware & uniforms	3,679,567,604.00	57,694,002,977.00	103,785,463,291.00
407 - Arms & ammunition imported by NPF,NCS & other para-military services	1,397,331,631.00	4,363,271,279.00	18,673,662,524.00
408 - Films, similar visual & auditory material educational/scientific by UN	24,618,800,419.00	440,705,813.00	-
409 - Fuel, lubricants & similar products as approved by minister	1,104,629,135,810.00	1,091,479,491,427.00	821,807,303,325.00
410 - Church & Mosque	4,944,075.00	106,409,061.00	2,787,203,173.00
411 - Specialized Hospital & Surgical equipment		390,193.00	194,052.00
412 - Scientific equipt, imported for public exhibition, study or res research		1,734,946.00	26,274,382.00
413 - Goods for donation to charity		26,863,042.00	933,669.00
414 - Goods imported by voluntary organization eg. Nigeria Red Cross	159,798.00	-	-
415 - Aircraft, their parts & ancillary equipt. air-cond. plant,catering eqpt	927,764.00	242,805,300.00	11,171,776.00

416 - Patterns & samples,cut,mutilated,spoilt, or otherwise unmerchantable(b	327,241.00	2,022,919,367.00	48,166.00
417 - Plant & machinery imported for use by companies in EPZ	501,796.00	247,626.00	722,915,422.00
420 - Perishable Goods	464,436.00	4,674.00	11,037,764.00
421 - Diapers and sanitary products	-	233,287,600.00	1,061,311,566.00
432 - Government concessions	783,549,494,032.00	680,543,853,892.00	-
433 - Excise duty exemption on some imported goods.	-	-	315,522,148.00
434 - Health and medical supplies to abate the spread of COVID.	-	-	30,014,051.00
435 - Presidential initiative on COVID-19 relief supplies	-	-	1,863,368,690.00
436 - Exemption of Import Duty and VAT on Commercial airlines.	-	-	6,954,473,815.00
437 - Exemption of Import Excise tax for selected companies	-	-	37,004,090.00
438 - VAT exemption on some pharmaceutical products and selected companies	-	-	217,375,190.00
442 - Importation of denatured alcohol by approved companies	-	-	2,970,037,790.00
443 - Levy Concession on Imports of Flat Rolled Steel by approved companies	-	-	106,921,611.00
498 - Government Concession CISS payable	953,869,774.00	-	-
499 - Government Concessions	19,235,321.00	24,714,004.00	-
555 - Import Duty Exemptions Certificates	-	-	2,459,490,454,989.25
ECOWAS	16,788,182,266.00	29,237,574,211.00	38,595,866,128.00
Total	2,075,289,747,074.00	1,999,960,197,370.00	3,854,289,320,006.25

5. Tariff Concessions

Apart from Waivers, the government over the years has granted concessions for certain imports in line with the ECOWAS CET 2022-2026, and as documented in the Customs, Excise Tariff, etc (Variations) Order, 2022. As contained in the Order, the government will allow certain goods of national importance used as production input to be imported at a lower tariff rate compared to what was specified in the ECOWAS CET. Before 2022, the NCS operated a consolidated National List of Concession which was implemented on the normal tariff lines as regular imports. However, for accurate data collection and ease of implementation, in 2022, government introduced the term ***Chapter 99*** to cater for Concessionary imports. Given the paucity of data for previous years and data availability for 2022 and the first half of 2023, analyses were conducted using these available data. The findings are presented in Table 52.

For every tariff exemption (waiver) issued, government concession was twice the issuance, which represents 5% of total import exemptions in 2022[14]. As presented in Table 52, the Government lost more revenue as a result of concession than exemptions, as annual tariff concessions represented at least twice of total yearly waivers. In 2019, the estimated total tariff waiver was ₦201 billion compared to ₦403 billion forgone as a result of concessions. By 2020, the government granted waiver valued at ₦779 billion compared to the ₦1.5 trillion granted as a concession in the same year. Two years later, total waiver declined to ₦553 billion while concession rose to ₦1.8 trillion.

Table 52: Comparison of Tariff forgone under Waiver and Concession

Year	Tariff Waiver (₦)	Tariff Concession (₦)[15]	Estimated Amount Forgone/lost (₦)
2019	201,991,966,058	403,983,932,116	605,975,898,174
2020	779,319,264,720	1,558,638,529,439	2,337,957,794,159
2021	208,074,572,018	416,149,144,036	624,223,716,053
2022	553,108,532,527	1,871,868,616,505	2,424,977,149,032

Source: Author's calculation using data from List of Beneficiary Companies for Concessionary Import Under Chapter 99 Of ECOWAS Common External Tariff (CET) 2022 - 2026 (National List). *Note that data for 2019 to 2021 were estimated*.

5.1 ECOWAS Tariff rate vs Nigeria Tariff Concession for 2022

As contained in the ECOWAS CET (2022-2026), certain items are to be imported at a specific tariff rate which can form part of a country's national list. In 2022, 99 items were selected by Nigeria to be part of the National List of Concession. To achieve the

[14] In 2022, 2011 entities comprising individuals, companies and MDAs were granted tariff exemptions; while 96 firms who applied for concessionary benefit were granted concessions in this same year under the National List of Concession.

[15] Amount of concession include IAT and VAT.

country's economic objective including boosting productivity, the ECOWAS-specific tariff rate was reduced resulting in declining revenue. Table 53 illustrates, using 2022 data, ECOWAS compared to the Nigerian tariff rate. The table shows that if Nigeria applies the import duty rate specified by ECOWAS, the country will earn a total of ₦2.3 trillion as compared to ₦882.2 billion earned due to concession.

Table 53: Amount forgone Due to Concession 2022

Import Duty Rate	Amount (in Naira)
Agreed ECOWAS Tariff Rate	2,385,529,203,072
Nigeria Tariff Rate (Concession Given)	882,295,837,716
Amount Forgone due to concession	1,503,233,365,356

Source: Author's calculation using data from List of Beneficiary Companies for Concessionary Import Under Chapter 99 of ECOWAS Common External Tariff (CET) 2022 - 2026 (National List). *Note that data for 2019 to 2021 were estimated*.

More than one-quarter (28%) of the total concession granted to all products in 2022 by the Government was given to petroleum product importers. When compared with the ECOWAS tariff rate, these importers (*17 companies*) received a 50% concession, as the government had to forgo ₦420 billion in 2022. Petroleum products that received these concessions include Petroleum oils and oils obtained from bitumen minerals, other than crude, which are meant to be mixed further. It also includes petroleum additives as well as lubricant oil. In addition, at *least 13% of all 2022 concessions went to importers of adhesive products,* which represents about half (50%) of total revenue (₦396.9 billion) using ECOWAS tariff for adhesive products for 2022. (Table 54 and Figure 57). Table 54 further shows that while Salt for human consumption is the only item the government grant never granted a concession, 100% tariff concessions were received by aluminum and amorphous pet chips importers.

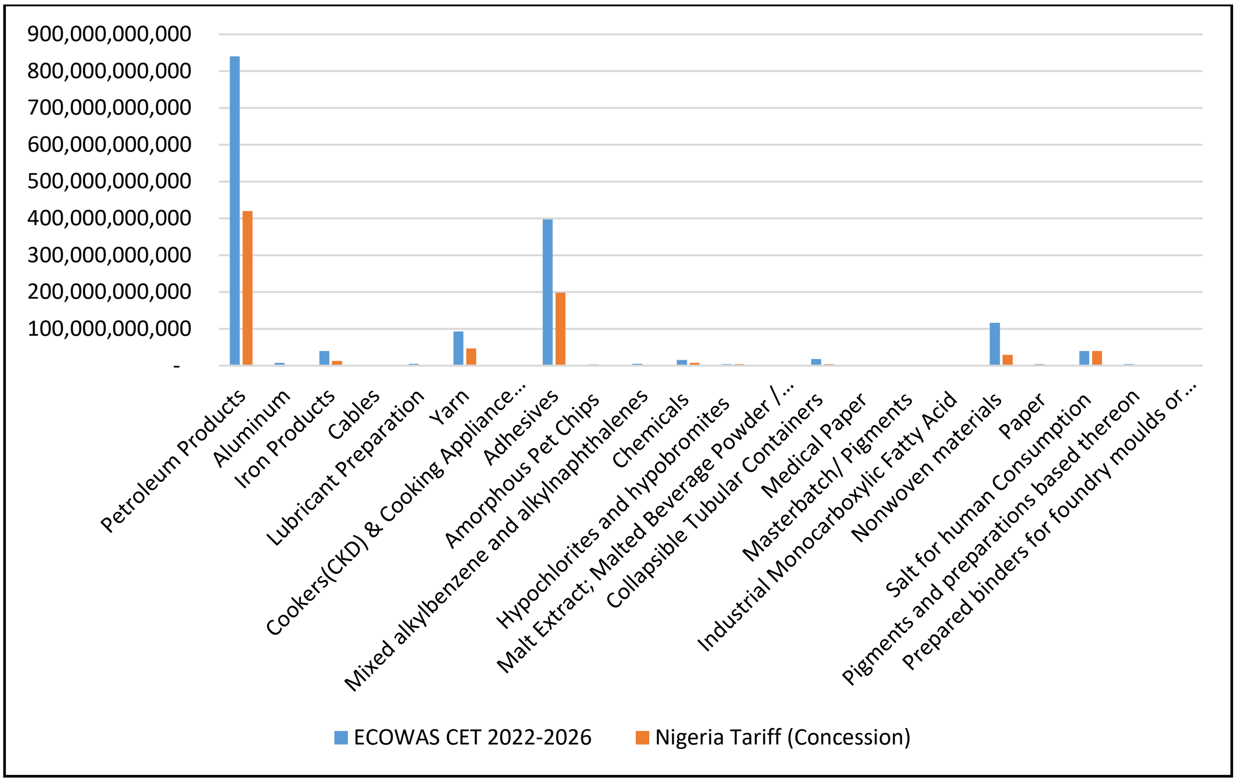
Table 54: ECOWAS Tariff Rate Vs Nigeria Tariff Rate (Concessions) by Products for 2022

Fiscal Items	ECOWAS CET 2022-2026 (₦)	Nigeria Tariff (Concession) (₦)	Amount Forgone (₦)	Share of Amount Forgone
Petroleum Products	840,034,631,941.09	420,017,315,970.55	420,017,315,970.55	28%
*Aluminium	7,908,017,150.00	0	7,908,017,150.00	1%
Iron Products	40,124,177,677.06	12,745,602,251.78	27,378,575,425.28	2%
Cables	907,873,553.46	337,527,808.08	570,345,745.38	0%
Lubricant Preparation	4,775,093,904.60	2,387,546,952.30	2,387,546,952.30	0%
Yarn	92,974,506,293.30	46,493,044,570.50	46,481,461,722.80	3%

Cookers (CKD) & Cooking Appliance (Knockdown)	1,132,383,000.00	566,191,500.00	566,191,500.00	0%
Adhesives	396,909,441,852.18	198,447,604,136.09	198,461,837,716.09	13%
*Amorphous Pet Chips	3,451,290,000.00	0	3,451,290,000.00	0%
Mixed alkylbenzene and alkylnaphthalenes	5,108,800,560.00	1,804,400,280.00	3,304,400,280.00	0%
Chemicals	15,587,052,596.08	7,793,526,298.04	7,793,526,298.04	1%
Hypochlorites and hypobromites	4,162,401,738.93	4,161,445,992.84	955,746.09	0%
Malt Extract; Malted Beverage Powder / Liquid in bulk not less than 25kg	701,840,700.00	350,920,350.00	350,920,350.00	0%
Collapsible Tubular Containers	17,735,416,000.00	4,433,854,000.00	13,301,562,000.00	1%
Medical Paper	130,774,837.50	65,387,418.75	65,387,418.75	0%
Masterbatch/ Pigments	51,548,412.00	25,774,206.00	25,774,206.00	0%
Industrial Monocarboxylic Fatty Acid	900,000,000.00	450,000,000.00	450,000,000.00	0%
Nonwoven materials	116,243,309,916.00	29,060,827,479.00	87,182,482,437.00	6%
Paper	3,839,597,259.00	1,919,798,629.50	1,919,798,629.50	0%
*Salt for human Consumption	40,000,000,000.00	40,000,000,000.00	0	0%
Pigments and preparations based thereon	3,990,844,800.00	1,995,422,400.00	1,995,422,400.00	0%
Prepared binders for foundry moulds or cores	58,895,594.20	29,447,797.10	29,447,797.10	0%
Others			679,591,105,611.13	45%
Total			1,503,233,365,356	100%

Source: Author’s calculation using data from List of Beneficiary Companies for Concessionary Import Under Chapter 99 of ECOWAS Common External Tariff (CET) 2022 - 2026 (National List). *Note that data for 2019 to 2021 were estimated.*

Figure 57: ECOWAS Tariff Rate Vs Nigeria Tariff Rate (Concessions) by Products for 2022



Source: Author's calculation using data from List of Beneficiary Companies for Concessionary Import Under Chapter 99 Of Ecowas Common External Tariff (CET) 2022 - 2026 (National List). *Note that data for 2019 to 2021 were estimated*.

5.2 Impact of Exemption and Concessions on Price: The case of Petroleum Products input imported into Nigeria

Amongst other factors, the concession on the import of additives and intermediate input to the production of oil lubricant may have contributed to its price competitiveness, compared to other ECOWAS countries. Petroleum products have been identified as the highest beneficiary of tariff exemptions and concessions in the country. As noted earlier, in 2022, additives for lubricating oil received a significant share of the total concessions given to petroleum product importers. Compared to the two other largest ECOWAS economies - Ghana and Côte d'Ivoire - the impact of these concessions may have had a (positive) significant effect on domestic prices of oil lubricants in Nigeria. Table 55 presents a price comparison of oil lubricants in Nigeria with Ghana and Côte d'Ivoire. The table shows that prices of oil lubricants are cheaper in Nigeria[16] compared to Ghana.

[16] Total Nigeria Plc is the market leader with the highest market share in terms of sales volume in the Nigeria Lubricants Market followed by Ammasco International Limited, 11 Plc, Oando Plc, Tonimas Nigeria Ltd, Forte Oil Plc, Conoil Plc, Lubcon, MRS Oil Nigeria Plc, A-Z Petroleum Products Ltd, Dozzy Oil and Gas, Eterna Plc, Techno Oil Ltd and Ascon Oil Company Ltd.

While oil lubricant prices averaged ₦2,000 for 1 liter, ₦7,000 for 4 liters, and ₦10,000 for 5 liters in Nigeria, it is almost double or thrice the average price in Ghana. If the same comparison is made for Cote d’Ivoire, Table 55 shows that the Ivorians pay almost four times the average price for 1 liter of oil lubricant in Nigeria, at least four to seven times the average price of four liters, four to eight times the average price of 5 liters. Prices are cheaper in Nigeria because the country is a major producer of oil lubricant, basically importing additives, while other economies in the region are importers of full lubricant products from Europe and the US.

Table 55: Price of Oil Lubricant in Nigeria and Other ECOWAS Countries-Ghana and Côte d'Ivoire, 2023

Nigeria			Ghana			Côte d'Ivoire		
Brand	Product Type	Estimated Price in Nigeria	Brand	Product Type	Estimated Price in Naira Equivalent 1 GH₵ = ₦70.67	Brand	Product Type	Estimated Price in Naira Equivalent 1 CFA= ₦1.40
A.G. Alpha	Superior Motor Oil, Sae 20w 50, Api Sj Cf-4 (4 Litres)	₦7,000.00	Motorcraft	Synthetic Blend Motor Oil	GH₵ 120 = ₦8,480.43	Mobil	FULLY SYNTHETIC ENGINE OIL 4L 5W-30	60,400 CFA = ₦84,298.62
A.G. Alpha	Superior Motor Oil, Sae 20w 50, Api Sj Cf-4 (5 Litres)	₦7,800.00	Motorcraft	5w-20 Synthetic Blend Motor Oil	GH₵ 450 = ₦31,801.63	Havoline	Synthetic Blend SAE10W-40 SN (4L) Car Engine Oil	18,300 CFA = ₦25,540.81
Abro	Oil Treatment	₦2,000.00	Motorcraft	5w-20 Semi-Synthetic Blend Engine Oil	GH₵ 480 = ₦33,921.74	Mobil	Super 1000 20W-50 Motor Oil - 4 Ltr.	19,900 CFA = ₦27,773.88

Nigeria			Ghana			Côte d'Ivoire		
Ammasco	Engen Super Engine Oil, Sae 20w 50, Api Sl Cf (4 Litres)	₦9,200.00	Motorcraft	5W-30 Synthetic Blend Engine Oil	GH₵ 480 = ₦33,921.74	Castrol Edge	Fully Synthetic Engine Oil 1L 10W-60, 1536Eb	19,500 CFA = ₦27,215.61
Ammasco	Synthetic Engine Oil, Sae 50w 30, Api Sn Cf (5 Litres)	₦12,000.00	Everest	Sae 5w-30 Synthetic Blend Engine Oil 5L	GH₵ 400 = 28,268.12	Petronas	Syntium 5000 Cp Oil 5W30 1-Liter	11,500 CFA = ₦16,050.23
Ammasco	Vital 2000sl Engine Oil, Sae 20w 50, Api Sl Cf4 (1 Litre)	₦3,000.00	Everest	Sae 5W30 Full Synthetic Engine Oil 5L	GH₵ 450 = ₦31,801.63	Liqui Moly	Engine Oil, 10W-60 6/1L, 8908	22,500 CFA = ₦31,402.63
Auto Sheck	Sd 40 Engine Oil, Sae 40, Api Sd Cc (1 Litre)	₦2,500.00	Mobil	5W30 Full Synthetic Engine Oil 5L	GH₵ 450 = ₦31,801.63	ADNOC	57815 Voyager Silver 10w/40 Sn Engine Oil 4ltr	41,000 CFA = ₦57,222.57

Nigeria			Ghana			Côte d'Ivoire		
Auto Sheck	Super Motor Oil, Sae 20w 50, Api Sf Cd (1 Litre)	₦2,600.00	Valvoline	5W30 Full Synthetic Engine Oil	GH₵ 600 = ₦42,402.17	Castrol Edge	Fully Synthetic Engine Oil 4L 10W 60, 56411	86,900 CFA = ₦121,283.94
Climax	Auto Lube Sae 40, Api Sd Cc (1 Litre)	₦2,500.00	Mobil	10w-30 Synthetic Blend	GH₵ 120 = ₦8,480.43	Castrol Edge	5W-30 LL Engine Oil 4L	71,400 CFA = ₦99,651.02
Climax	Auto Lube Sae 40, Api Sd Cc (4 Litres)	₦6,700.00	Mobil 1	Advanced Full Synthetic Engine Oil	GH₵ 500 = ₦ 35,335.15	RS Mannol Energy	5W30 A3/B3 Fully Synthetic Engine Oil, WSS-M2C913-B, 5 Litres	89,400 CFA = ₦124,773.12
Climax	Cx7 Motor Oil, Sae 20w 50, Api Sf Cd (1 Litre)	₦2,600.00	Castrol EDGE	Advanced Full Synthetic Oil (5w-30)	GH₵ 500 = ₦ 35,335.15	CastrolMAGNATEC	Stop-Start 5W-30 C3 Engine Oil 1L	15,100 CFA = ₦21,074.66
Climax	Cx7 Motor Oil, Sae 20w 50, Api Sf Cd (5 Litres)	₦8,200.00	Yuko	Synthetic 5w-30 5L	GH₵ 290 = ₦ 20494.38	Motul	3000 4T Plus 20W40 API SM HC Tech Engine Oil for Bikes (1 L)	10,100 CFA = ₦14,096.29

Nigeria			Ghana			Côte d'Ivoire		
Climax	Full Synthetic Motor Oil (5 Litres)	₦13,000.00	Eurol	0W2 Eurol Synthetic Engine Oil 5litres	GH₵ 440 = ₦ 31,094.93	Shell Helix	HX8 5W-30 API SN Plus Fully Synthetic Engine Oil for Petrol, Diesel & CNG Cars (3.5 L), medium	60,400 CFA = ₦84,298.62
CLIMAX	GEAR OIL API GL-4 (1 LITRE)	₦2,700.00	Kraftmax	0W20 Kraftmax Synthetic Engine Oil 5litres	GH₵ 320 = ₦ 22,614.49	Motul	Scooter LE 10W30 Engine Oil (800 ml)	10,500 CFA = ₦14,654.56
			Mobil 1	Original USA Mobil1 0w-20 Oil	GH₵ 150 = ₦ 10,600.54	Castrol Activ	20W-40 4T Synthetic Engine Oil for Bikes 1L	11,400 CFA = ₦15,910.67
			Addinol	Addinol Economic 5W30 Engine Oil-5l	GH₵ 450 = ₦31,801.63	Castrol POWER1 ULTIMATE	10W-40 4T Full Synthetic Engine Oil for Bikes 1L	13,200 CFA = ₦18,422.88
			Gazpromneft	Engine Oil 5W40 1L	GH₵ 80 = ₦ 5,653.62	Shell Helix HX8	5W-30 API SN Plus Fully Synthetic Engine Oil for	82,900 CFA = ₦115,701.25

Nigeria			Ghana			Côte d'Ivoire		
							Petrol, Diesel & CNG Cars (4 L)	

Source: Nigeria - https://partste.ng/product-category/battery-fluids-oil-lubricants/oil-lubricants/?product_brand=climax
Ghana - https://tonaton.com/a_synthetic-blend-motor-oil-motorcraft-xw075yyO0Q7NbNTymOTgcWpu.html
Cote d’ Ivoire - https://cote.desertcart.com/search/engine%20oil

Although prices of oil lubricants were lower comparably in 2022, however, the same cannot be said of gas oil (diesel), which received the highest tariff exemption in 2022. As presented in Table 56, at least 99.9% of total oil imports in 2022 excluding butane (a component of gas) went to the importation of diesel.

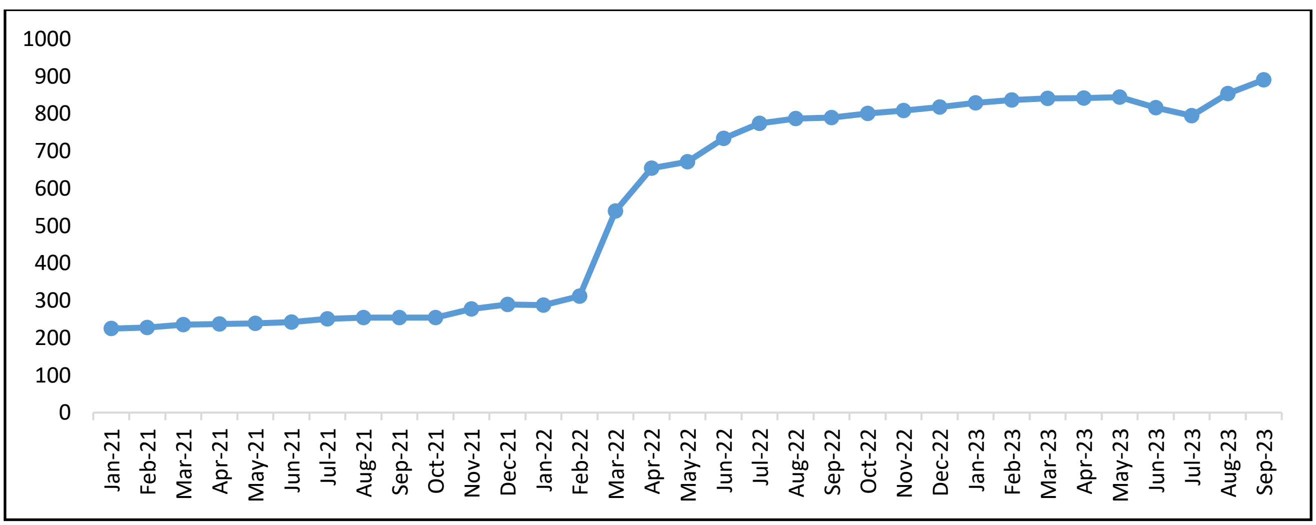
Table 56: Tariff Exemption on Oil Products in 2022

Tariff line	Amount of Exemption (in Naira)	Shares
Gas oil (Diesel)	276,302,601,161.00	99.9%
Heavy Fuel Oil II	48,417.14	0.0%
Other additives other than for lubricating oils nes	9,182.61	0.0%
Other motor oil not specified.	33,781,813.25	0.0%
Partially refined oil including crude oil having undergone primary refinement	110,531,699.00	0.0%
Petroleum oils and oils obtained from bituminous minerals	44,915.98	0.0%
Two cycle motor oil	5,094,787.97	0.0%
Grand Total	276,452,111,976.95	100.0%

Source: Author's calculation using NCS data

Although other factors may be responsible, however, the national monthly average price for gas oil did not decline with the number of exemptions received by petroleum importers in 2022. Infact, Diesel price rose by almost 400% from ₦288 per liter in January 2022 to 828 in January 2023, and as of September, 2023, it peaked at ₦890 (Figure 58).

Figure 58: Nigeria National Average Monthly Price of Gas Oil (Jan 21-Sept. 2023)



Source: Author's calculation from NBS data

5.3 The Implementation of National List Under CET: Some Observations and Points to Note

The Federal Government of Nigeria (FGN) approved the implementation of the "National List' of items under Chapter 99 of the CET 2022-2026 through circular no. HMFBNP/MDAs/CIRCULAR/2023 FP/04 dated 20th April 2023. The National List provides reduced tariff protection "to promote and stimulate growth in critical sectors of the economy" (Approval for the implementation of the 2023 Fiscal Policy Measures and Tariff Amendments, 2023). The circular provides that the tariff protection is only "accessible to verifiable investors/manufacturers who require them as inputs for production."[17]

Approval and Implementation Authorities

The approval authority for the applicants who are qualified to benefit from the National list is the (FMof) while the NCS is the implementation authority. In effect, the administrative power of the tariff reduction fiscal policy measure is only exercisable by the FMof while the NCS is the custodian of the operational power. Earlier, the NCS implemented the approved National List for 2022 under the guidance of "Customs, Excise Tariff, Etc.(Variation) Order, 2022 (Federal Republic of Nigeria Official Gazette, 2022).[18]

Transparency

For effective accountability and transparency, the NCS is expected to provide returns of data, regularly, on the implementation of the approved list by the FMof. This data should contain necessary information on the financial implication of the fiscal policy measure related to the accruable revenue that is forgone. The availability of information on 'forgone revenue' will enable the government to determine which beneficiary or sector of the economy should remain on the 'National List' for economic development. It, therefore, requires effective monitoring and evaluation of the fiscal policy measure to establish an accurate record of the 'forgone import duty revenue'.

Limited/Lack of Coordination

The importance of this record is that it shows the government the monetary cost of the concessionary rate against the regional rate under the CET. Such regular review allows the government to update its National List as required. Since the full implementation of regional tariff harmonization is due by **August 2026,** this implies that the ECOWAS Member States, including Nigeria, will suspend the "National List' three years from now.

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[17] Circular: Federal Ministry of Finance, Budget and National Planning, 20th April, 2023

[18] Gazatte: Federal Republic of Nigeria Official Gazette, No. 88, Lagos-11th May 2022, Vol. 109

The question that arises is, whether Nigeria would have promoted and stimulated growth in critical sectors of the economy as expected under the concessionary rate. The answer to this will require an interrogation of the key issue related to coordination between the concessionary rate approving authority ((FMof) and the implementing agency NCS. The lack of coordination, which should exist through a monitoring and evaluation mechanism that will ensure effective implementation and availability of accurate data, is a concern that must be addressed urgently. While the FMof is the supervisory authority of fiscal measures implemented by the NCS, the coordination between the two authorities (government to government) is weak, particularly relating to tariff concessions that impact national economic development and regional integration. This has to be corrected because of the emerging more competitive continental trade (AfCFTA) that requires an effective database to support national economic policy.

Absence of Returns

To obtain accurate data on the difference between the revenue accruable to Nigeria based on the concessionary rate of import duty and the ECOWAS rate, it became clear that regular monthly returns from the NCS to the FMof were not available. It was also observed that the Tariff and Trade Department (T&T) of the NCS was not in the custody of returns from the Customs Area Commands where the concessionary import duty was implemented. The Area Commands may keep records of implementation, however, returns to the NCS Headquarters seem not effective or the storage of the returns at the NCS Headquarters requires more efficiency and effectiveness. Easy retrieval or timely availability of such returns is necessary to establish that the goods imported under the tariff protection fiscal policy measure are in compliance with the item and quantity approved by the FMof. In this case, while the NCS provided a list of beneficiaries and a description of the items, the quantity imported through the various Area Commands could not be ascertained. This is a gap that provides an opportunity for an abuse of the process, which may impact negatively on the economy. A beneficiary may import more than the approved quantity.

Storage of accurate data There was also no clear record of the import duty forgone as a difference between the ECOWAS rate and the National rate. While the consultant of the trade taxation and customs study scrutinized the available records from the NCS and analyzed the revenue forgone by Nigeria in the tables and graphs above, effective coordination must exist between the FMoF and the NCS to ensure the storage of accurate data to guide government policies on national economic development, regional integration, and continental trade.

Compliance with the Regional Harmonization Process

More importantly, Nigeria must adopt necessary laws, regulations, and administrative provisions to comply with the regional harmonization directive within three (3) years commencing from August 1, 2023. This will be in line with the recent ECOWAS Supplementary Act of Heads of States and Directives of Regional Ministers on Tax and Customs Duties Harmonization that signaled a move toward regional custom union through harmonization of tariffs and procedures applied by Member States. Particularly, the "Ninetieth Ordinary Session of the Council of Ministers" held in Bissau, 6-7 July 2023 titled "Directive C/DIR.7/07/23 on Model Code of Ethics and Conduct for Tax Administrations of ECOWAS Member States" prescribes in Article 2 subparagraph 1 that Member States shall adopt necessary laws, regulations, and administrative provisions to comply with the regional harmonization directive "no later than three (3) years commencing from August 1, 2023.[19]

The objective of the directive is stated in Article 1, which provides for the creation of a mechanism to monitor and evaluate the ECOWAS fiscal transition.[20] Towards achieving the desired objective of the above directive, the Tax Transition Steering and Monitoring System is highlighted in Article 3.[21] In the same vein, a National Tax Transition Steering Committee is expected in each Member State as stated in Article 9[22] and should coordinate the development of the National Tax Transition Programme, including monitoring convergence and fiscal transition as prescribed in Article 10 subparagraphs 1 and 2.[23]

Audit Beneficiary Companies

While the study provides the monetary figure related to 'revenue forgone', it is important that the FMoF conducts an audit of the beneficiary companies to determine whether they are functional and the level of employment generated based on the concessionary rate enjoyed by the beneficiaries. This will also reflect on the welfare impact on households as the reduced tariffs should ensure the lower cost of the products to the advantage of the domestic consumers of such products. The audit is critical to achieving the goal of the national concession "to promote and stimulate growth in critical sectors of the economy"

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[19] ECOWAS/CEDEAO: Directive C/DIR.7/07/23 on Model Code of Ethics and Conduct for Tax Administrations of ECOWAS Member States

[20] ECOWAS/CEDEAO: Article 1- This Directive is to create an institutional mechanism for monitoring and evaluating the ECOWAS fiscal transition.

[21] Ib: Article 3 – An institutional mechanism is established to pilot, monitor and evaluate the Tax Transition Program, which is titled "Tax Steering and Monitoring System".

[22] Ib: Article 9 subparagraph 1: A National Tax Transition Steering Committee shall be created in each Member State.

[23] Ib: Article 10.1: The National Committees are to coordinate and oversee the development of the National Tax Transition Programme…..

Ib: Article 10.2: The National Committees are responsible for monitoring convergence and fiscal transition……

within the three years allowed by ECOWAS for Member States to maintain the National List. The audit will confirm whether the targeted critical sectors of the economy are impacted or whether there is a need to adjust the list based on findings from the audit.

RECS as Pillars of Continental Trade

Because the RECs are the pillars of continental integration through the AfCFTA, the regional harmonization drive by ECOWAS is in the interest of the ECOWAS Member States to be competitive in the continental trade. In effect, the 3-year period for ECOWAS Member States to align their tariff rates with the regional rates is a grace period for member states to fully integrate into the ECOWAS CET. The question is; whether Nigeria will meet the ECOWAS timeline by 2026. The answer will be based on the capacity of Nigeria to provide an effective national monitoring and evaluation mechanism during the transition period as required in the ECOWAS directive.[24]

Therefore, the current gap between the FMof and the NCS must be closed through the establishment of an effective monitoring and evaluation mechanism for fiscal policy implementation by the NCS. Equally required are accurate returns from the Customs Area Commands (implementation points) to the Tariff and Trade Department in the NCS Headquarters. Without the availability of accurate implementation data at the NCS headquarters and the FMof, the competitiveness of Nigeria at the regional level and the continental level may be impaired, including failure to promote and stimulate growth in critical sectors of the economy.

3. Cost Benefit Analysis (CBA)

This section examines the cost and benefit of customs incentives given to different sectors of the economy from 2016 to 2022 based on the data on tariff incentives provided by government. Due to data availability, the following sectors – aviation and agriculture - were given further explanation covered:

a. CBA of Tariff Incentive to Aviation Sector

The CBA of customs incentive to the aviation sector shows that both direct and indirect employment created in the sector rose from 93,860 jobs in 2016 to about 140,920 jobs in 2022 while total cost of incentive plus collection cost also rose from ₦258.6 million to

[24] ECOWAS/CEDEAO: Directive C/DIR7/07/23: A National Tax Transition Steering Committee shall be created in each Member States

₦4.1 billion (See column H, Table 57). The table shows that higher incentives to aviation had created more jobs in that sector compare to lower incentives when other tax incentives (especially domestic taxes) are discounted. As presented in the table, high employment was created in 2019 and in 2022 compare to 2020 – when COVID-19 struck the sector. However, with the resumption of activities in the sector, employment rose. It is significant to mention that at least 20,000 people are employed in Nigeria by airlines, airport operators, on-site businesses (restaurants and shops), aircraft manufacturers, and air navigation service providers.

Table 57: Cost – Benefit Analysis of Customs Incentive to Aviation[25] Sector -Employment

A	B	C	D	E	F	G	H	I
Years	**Estimated Aviation jobs**	**Growth Rate of Aviation jobs**	**Customs Incentives (₦)**	**Collection cost by Customs (Shares)**	**Cost (D*E) ₦**	**Total Cost of Aviation incentive (₦)**	**Benefit (No. Jobs Created) = B* elasticity shares 26**	**Cost to Benefit Ratio**
2016	247,000	-3%	242,685,864.00	6.6%	15,975,164.94	258,661,028.94	93,860.	0.00036
2017	240,000	-3%	2,022,896,549.00	7.2%	146,019,652.88	2,168,916,201.88	91,200	0.00004
2018	321,600	34%	630,700,011.00	8.4%	53,165,176.36	683,865,187.36	122,208	0.00018
2019	351,830	9%	89,905.00	9.6%	8,646.53	98,551.53	133,695	1.35661
2020	231,830	-34%	10,818,199.00	8.9%	962,016.52	11,780,215.52	88,095	0.00748
2021	279,046	20%	3,359,797,731.00	10.9%	366,895,527.88	3,726,693,258.88	106,037	0.00003
2022	370,844	33%	3,594,939,756.00	15.9%	573,200,263.83	4,168,140,019.83	140,920	0.00003

Source: Authors calculation from several sources

In addition, the sector supported an additional 35,000 jobs through purchasing goods and services from regional vendors. Additionally, the sector is thought to sustain an additional 16,000 employments through the earnings it gives its workers, some or all of which are then used to purchase goods and services for consumers. According to estimates, an

[25] **Note** 2015 data came from https://www.icrc.gov.ng/assets/uploads/2019/05/Transport-Tourism-April-2019.pdf, 2016 was estimated as the average of 2015 and 2017 data. 2017 Data was derived from https://www.iata.org/en/iata-repository/publications/economic-reports/nigeria--value-of-aviation/. 2018 data was derived from 34% of 240,000 jobs; there was 34% in aviation jobs see https://businessday.ng/exclusives/article/employed-nigerian-pilots-rise-by-34-in-2018-despite-stunted-aviation-growth/. 2019 data is derived as 9.4% increase of 2018. 2020 data was derived as 2019 data minus 120,000 jobs. The 120,000 jobs were derive from https://professions.ng/impact-of-covid-19-on-aviation-jobs/. 2021 data was derived from percent 0.0074 of 231,830 plus job created in 2020.

[26] Note: Elasticity shares is the elasticity of Customs incentives to share of service employment, that is the estimated degree of responsiveness of service employment to a change in customs incentives. This was measures with the coefficient of employment in the table 2 of the regression result. Shares (0.38%) are found in the regression result.

additional 169,000 employments are supported by the foreign visitors that fly into Nigeria and spend money there. Air travel and visitor arrivals by air support a total of 241,000 employment[27].

The total benefit in terms of Aviation GDP generated by customs incentives compare to the cost average ₦67.5 million in 7 years, 2016-2022. Apart from 2021 and 2022 where cost to benefit ratio was 1.50 and above, preceding years' experience cost-benefit ratios were higher. The year 2019 had the highest ratio given the higher Aviation GDP and low total cost of aviation incentive. The resulting benefit as Aviation GDP accruable to customs incentives in the sector rose from ₦5.4 billion to ₦7.1 billion between 2016 to 2022 compare to the overall aviation GDP of 60 billion and 79.5 billion respectively (Table 58).

Table 58: Cost – Benefit Analysis of Customs Incentive to Aviation Sector- GDP

A	B	C	D	E	F	G	H	I
Years	Aviation GDP	Growth rate of Aviation jobs	Customs Incentives (₦)	Collection cost by Customs (Shares)	Cost (D* E) ₦	Total Cost of Aviation incentive (₦)	Benefit (Amount GDP generated) = B* elasticity shares[28]	Cost to Benefit Ratio
2016	60,054,089,231	-5%	242,685,864.00	6.6%	15,975,164.94	258,661,028.94	5,404,868,030.77	20.90
2017	61,155,628,605	2%	2,022,896,549.00	7.2%	146,019,652.88	2,168,916,201.88	5,504,006,574.47	2.54
2018	73,813,443,546	21%	630,700,011.00	8.4%	53,165,176.36	683,865,187.36	6,643,209,919.15	9.71
2019	83,531,840,031	13%	89,905.00	9.6%	8,646.53	98,551.53	7,517,865,602.83	76,283.60
2020	52,643,577,448	-37%	10,818,199.00	8.9%	962,016.52	11,780,215.52	4,737,921,970.28	402.19
2021	63,013,240,505	20%	3,359,797,731.00	10.9%	366,895,527.88	3,726,693,258.88	5,671,191,645.46	1.52
2022	79,542,236,693	26%	3,594,939,756.00	15.9%	573,200,263.83	4,168,140,019.83	7,158,801,302.36	1.72

Source: Analysis from different source – NCS data, other sources

b. CBA of Tariff Incentive to Agriculture Sector

For the agriculture sector, on the other hand, it is estimated that customs incentive may have resulted in a measure of benefit given the cost benefit ratio of almost one for three years- 2018, 2019, and 2021. The agriculture sector is traditionally an employer of labour in Nigeria, employing more than 36% of the labour force[29]. However, apart from customs incentive, the sector receives other incentives that may have resulted in the job growth experience in the sector. In 2018, where the cost benefit ratio of the incentive was 1.31, job created (benefit) of 993,812 was higher than the cost of creating that job (N753,623). In

[27] https://www.iata.org/en/iata-repository/publications/economic-reports/nigeria--value-of-aviation/

[28] Note: Elasticity shares is the elasticity of Customs incentives to share of Real GDP, that is the estimated degree of responsiveness of Aviation GDP to a change in customs incentives. This was measures with the coefficient of Aviation GDP in the table 2 of the regression result. Shares (0.09%) are found in the regression result.

[29] afcfta-agribusiness-current-state-nigeria-agriculture-sector.pdf (pwc.com)

2021, with a CBA ratio of 0.7 job created was 1,064,391 compare to cost of N7,019,068 (see figure 59 and Table 59).

Figure 59: Estimated Cost and Benefit (job created) of Customs Incentive to the Agriculture Sector

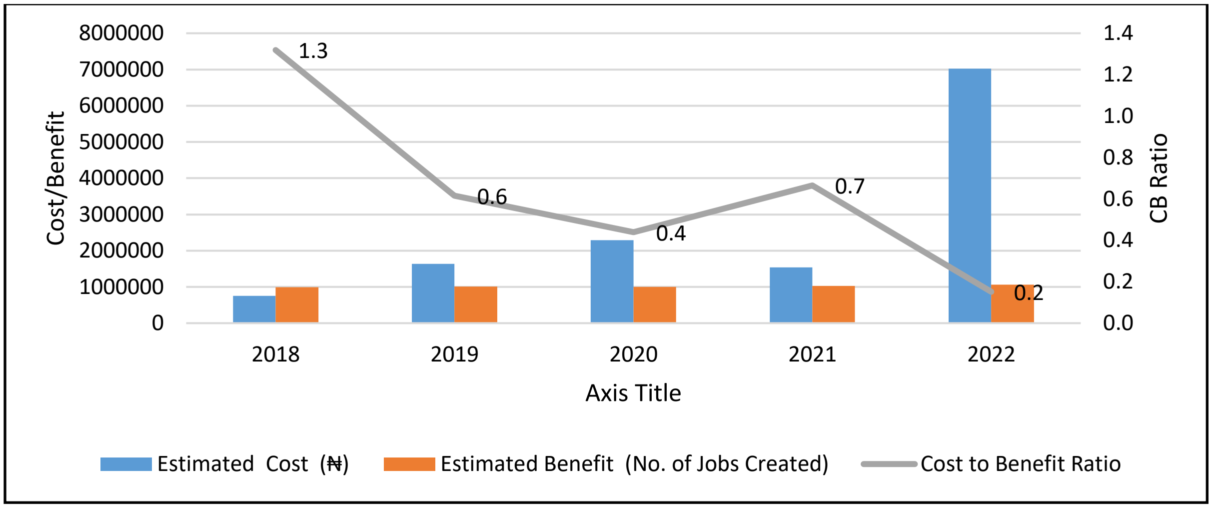


Table 59: Cost – Benefit Analysis of Customs Incentive to Agriculture Sector- Employment

A	B	C	D	E	F	G	H	I
Years	Agriculture Employment[30]	Growth rate of Agriculture jobs	Customs Incentives (₦)	Collection cost by Customs to total Collection cost (Shares)	Cost (₦) D*E	Total Cost of Agriculture incentive (₦) D+E	Benefit (No. Jobs Created) = B* elasticity shares[31]	Cost to Benefit Ratio
2018	1,987,624,248	2.89%	695,035.00	8.4%	58,588.33	753,623.33	993,812.12	1.31871
2019	2,019,255,719	1.59%	1,496,955.00	9.6%	143,968.30	1,640,923.30	1,009,627.86	0.61528
2020	2,010,061,515	-0.46%	2,100,272.00	8.9%	186,768.27	2,287,040.27	1,005,030.76	0.43945
2021	2,047,810,838	1.88%	1,386,727.00	10.9%	151,432.91	1,538,159.91	1,023,905.42	0.66567
2022	2,128,782,591	3.95%	6,053,810.00	15.9%	965,258.31	7,019,068.31	1,064,391.30	0.15164

[30] Data calculated from https://www.statista.com/statistics/1288348/number-of-people-employed-in-nigeria/ and share of Employment in agriculture (% of total employment) (modelled ILO estimate).

[31] Note: Elasticity shares is the elasticity of Customs incentives to share of agriculture employment, that is the estimated degree of responsiveness of Agriculture employment to a change in customs incentives. This was measures with the coefficient of Agriculture employment figure in the table 2 of the regression result. Shares (0.05%) are found in the regression result.

4. The Opportunity Cost of Customs Incentives

The intention of government in offering trade or customs incentives to businesses and non-businesses is to achieve both macro and micro-firm level objective. It is necessary to examine the opportunity cost of customs incentive. This can be determined by considering the best alternative program that can be implemented by government instead of giving significant amount of trade incentives. Research shows that if government chooses to offer another alternative incentive such as providing infrastructure this will go a long way to help businesses. As noted by a World Bank Source, countries who offer other benefits instead of providing incentives do better than countries who provide such incentives without adequate fiscal space to manage other financial obligations.

Financial Incentives, whether customs or domestic incentives are not what primarily participate motivate businesses in investing in developing countries such as Nigeria. As Kusek and Silva (2018) and James (2014) noted ‘‘surveys of investors around the world find that firms often do not rank incentives among their top reasons for investing but rather are often trumped by other variables, which typically include market opportunities and the broader investment climate.’’ According to Bellak, Leibrecht, and Damijan (2009) and Kinda (2014), tax (customs) incentives are more successful in nations with improved infrastructure, affordable transportation costs, and a policy environment that encourages investment. In fact, it has been found that in nations with favourable investment climates, tax incentives are eight times more efficient at luring FDI (James 2014). In contrast to tax rates and incentives, other country-level criteria like political stability, regulatory quality, and market opportunities are more important to investors' initial location decisions (UNIDO 2011). In general, a poor or unappealing FDI environment cannot be made up for by a low tax burden (Göndör and Nistor 2012).

Therefore, to calculate or determine the opportunity cost of custom incentive, the following steps were followed: a) assess the current situation and/or alternative infrastructural incentives available to government, (b) Determine the potential gains and losses of each option, (c) Use a formula to calculate the difference between the return of the chosen option and the return of the best forgone option. One possible formula is: Opportunity cost = The return of the option not chosen – The return of the option chosen and finally make an informed decision based on the opportunity cost and other factors.

Table 60: Opportunity Cost of Customs Incentives

Selected Government (Spending) incentives that can spur private sector growth (alternative)[32]	Implementation Status @ 2022 Budget Appropriation	Amount Budgeted	Share on total budget	Impact on the aviation sector (*Qualitative assessment*)	ROI of Government spending (if implemented) on the private sector - *Quantitative assessment* (expected gains)	Customs Incentives	Return of the Option Chosen	Opportunity Cost (= *The ROI of the option [alternative] not chosen – The return of the option chosen*)
Government investment in the aviation Sector	Ongoing/partially completed	₦75,497,812,175	100%	Total capital expenditure on aviation can ensure promote ease of doing business in the aviation sector	Aviation GDP growths by 30%	₦4,168,140,019.83	7,158,801,302.36	7,158,801,302.36

[32] The sectoral alternative program considered the budgetary expenditure implementable by government as documented in the 2022 budget see https://www.budgetoffice.gov.ng/index.php/resources/internal-resources/budget-documents/2022-budget/2022-amended-appropriation . Apriori, it can be assumed that the opportunity cost of giving sectoral customs incentives depends on an ***implemented*** budgetary capital expenditure.

				and grow aviation GDP				
Government investment in the Agriculture Sector	Ongoing/partially completed	₦105,897,800,105	100%	Total capital expenditure on agriculture can ensure promote ease of doing business in the aviation sector and grow aviation GDP	Agriculture GDP growths by 20%	₦5,197,366,302	9,780,950,320	9,103,910,672
Government investment in others sectors.	Ongoing/partially completed	₦120,302,905,230	100%	Total capital expenditure on other sectors can ensure promote ease of doing business in the aviation sector and grow aviation GDP	Other sectoral GDP growths by 10%	₦98,587,370,440	97,100,978,875	90,097,986,920

5. Export Expansion Grant (EEG) Scheme

The Export (Incentives and Miscellaneous Provisions) Act, Cap. E19, Laws of the Federation of Nigeria (LFN), 2004 created the Export Expansion Grant, sometimes known as "the Scheme" or "EEG," as one of the export incentives by the Federal Government in 1986. This post-shipment incentive is intended to increase Nigeria's non-oil export volume and value while also making the country's goods and commodities more competitive. The Export Expansion Grant program is an essential means of providing the export-oriented activities needed to significantly expand the non-oil export industry and diversify the economy.

The intention of the 2005 and 2017 revisions to the Export Expansion Grant (EEG) Scheme was to reposition it as an instrument for accomplishing economic objectives. The Scheme has had a number of difficulties over time, including fiscal constraints, inadequate funding, and non-acceptance of the Negotiable Instrument. The constant institutional disruptions of the Scheme constituted a significant obstacle to the efficient management of the EEG. There were ten disruptions to the Scheme from 2005 to 2016. This has been a major factor in the backlog building and decline in export activity.

In addition to the aforementioned, financial limitations also resulted in the creation of new EEG backlogs. Not only has there always been a significant discrepancy between the amount released and the amount allowed in the budget, but there has also always been a very small amount appropriated. There is a huge discrepancy between the amount released and the outstanding accrued amounts, which is why this message is necessary to resolve the matter.

Notwithstanding the disruptions and interruptions of the Scheme, the EEG has been of immense benefits to the economy through foreign exchange generation, forestalling job loses, new job creation etc. Due to the last interruption in the scheme from 2014 – 2016 and the attendant delayed/none payment to EEG beneficiaries, about 12 companies offering jobs to not less than 5,000 Nigerians have folded up and or scaled down their operations. Impact of the EEG is presented in Table 60.

Table 61: Impact of EEG on employment (2014 – 2020)

Year	Employment (Nigerians)	% Increase/Decrease
2014	86,649	
2015	90,347	4.27%
2016	88,731	-1.79%
2017	85,043	-4.16%
2018	70,784	-16.77%
2019	74,898	5.81%
2020	83,478	11.46%
2021	88,486	6.00%

Source: NEPC, 2023

The grant suffered technical suspension from 2014 and the negative impact on employment became manifest from 2016. Though the scheme was restored in 2017 but claims were not received by the beneficiary companies until 2018/2019 which manifested positively in increase in job creation in 2019 and continued in even higher proportion despite Covid-19 pandemic, because of bailout offered through the instrumentality of the grant and other government interventions in the non-oil sector.

With the suspension of the EEG Scheme in 2014, exporting companies began to record negative growth in capital investment but with the restoration of the grant in 2017, a positive growth rate in capital investment was witnessed in 2018 which almost quadrupled in 2019 and continued to the present time. To fully appreciate the impact of the Export Expansion Grant on non-oil exports, it is better to re-state its objectives and compare with available evidence. When viewed against the background of its objectives, the Export Expansion Grant (EEG) has made significant positive impact on non-oil export performance especially during the period of smooth utilization of the Settlement Instrument by beneficiaries.

Statistics from individual companies and the ones released by Central Bank of Nigeria (CBN), through the Pre-Shipment Inspection Agents (PIA) reinforces the conclusion that, Nigeria's non-oil export is not only growing, but the markets and products have been diversified. Indeed, Nigeria's non-oil export grew by 39.91% in 2022 to US$4.820, the highest ever in the history of the Council. A total of 185 different products were exported to 122 countries in 2022. The growth as per the table above occurred when the EEG Scheme was reactivated with the issuance of Export Credit Certificates as well as Promissory Notes to beneficiary companies.

No doubt, the utilization of the Certificates and Promissory Notes have been the critical factor behind the positive performance of the non-oil export sector of the economy.

A survey carried out also provided ample evidence that many companies have utilized their grants to procure more machinery to expand their production for export, and thereby generating more employment. For example, in 2020 the sample sectors had a total capital investment of over N373.282 billion and had generated employment of 83,478 Nigerian workers. This however went up to a massive N8.632 trillion for capital investment and 88,486 workers in 2021.

Report from the last revalidation exercise conducted in 2021 by the Presidential Committee on Continuous Audit (PICA) on companies that benefited from the Promissory Note Programme, have utilized their grant to procure more machinery to expand their production for export and thereby generating more employment. Between 2020-2022, beneficiary exporting companies added 5,008 Nigerian employees to the pool of non-oil export workers.

A revalidation exercise conducted by PricewaterhouseCoopers (PWC) on companies benefiting from EEG, revealed that substantial number of Nigerian Exporters had cultivated the habit of keeping proper records of their transactions, and are more organized unlike in the past. The redesigned EEG does not admit of any transactions that are not transparent, or done without proper and adequate documentation. The use of value addition, as one of the criteria to benefit from the EEG Scheme, has contributed to significant investments in processing, particularly in tanning of Hides and Skins, Cocoa, Rubber, Hibiscus, Sesame Seed, Ginger, Spices and Cashew products, as well as an increase in exports of downstream oil derivatives, especially Lubricants, thus, enhancing the non-oil export sector as a source of livelihood to millions of Nigerians, especially in the agro-allied sector.

Nigerian non-oil products like processed leather articles, cashew, cocoa, ginger, rubber and sesame seeds have earned a distinction in several quality- conscious markets like the European Union (EU) and USA, in spite of their stringent regulatory standards for agricultural products. The EEG Scheme has facilitated the further integration of the informal sector into the mainstream economy through the proper documentation and repatriation of export proceeds by beneficiaries, as verified by the CBN, leading to improvement in the collation and analysis of relevant trade data and statistics. Data captured by the NEPC between 2021 to date, revealed the receipt of 88 applications from companies willing to engage in formal export in order to benefit from the EEG Scheme.

The county's export earnings have continuously been experiencing an upward trend from 2017 when the Scheme was revised and the ECC and Promissory Notes were introduced as Utilization Instruments. The assurance of benefiting from the Export Expansion Grant (EEG) has motivated many companies to invest in production for export. Some had already negotiated and signed their export contracts with the grants factored into them. The need to continually and promptly administer the grant to eligible beneficiaries cannot be overemphasized considering the huge benefits of the scheme to both the exporters and the Nigerian economy.

It is important to mention that in-spite of the analysis provided in this brief, we wish to observe that the fortunes and misfortunes of non-oil exports cannot be attributed only to EEG and or inadequate provision of Settlement Instrument for the scheme, as there are several other variables influencing it negatively or positively. All these factors have combined to make export business in Nigeria very difficult, and our products less competitive in international markets. The EEG is currently the only functional incentive scheme that tends to mitigate these adverse circumstances. In view of the strategic importance of the EEG Scheme as a vital incentive needed for the stimulation of export-oriented activities that will generate the needed impetus for the growth of the non-oil export sector and the diversification of the economy, there is the absolute need for the settlement of the outstanding and current claims. The outstanding claim of EEG **between are** 195 Companies (2021-2022 & 2017-2020) with cumulative value of **N269,446,402,822.54**

C. Impact Analysis of Tariff and Tax Incentive of Economic Integration in Nigeria

Studies examining the impact of the AfCFTA on the Nigeria Economy has been conducted by a number of institutions such as the Nigeria Economic Summit Group (NESG, 2019). The NESG study employed the Computable General Equilibrium (CGE) methodology. The analysis was done under six policy simulation scenarios including – linear cut in tariff over the ten-year AfCFTA implementation period; front-loading tariff liberalization, backloading tariff liberalization, linear cuts in tariff combined with 10 percent of locally produced substitutes categorized as sensitive goods and protected from liberalization, linear cuts in tariff combined with 10 percent exogenous increase in government investment; linear cut in tariff combined with 5 percent increase in labour supply and 5 percent increase in foreign capital inflow.

The NESG study has some interesting findings with wide-ranging implications for the Nigerian economy. *For instance, the results indicate that the AfCFTA will lead to a decline in Government revenue in all scenario, but a scenario that assumes an increase in foreign* *investment inflow and labour supply can cushion this decline. Government revenue declined by 0.21 percent when* linear cut to the tariff is applied and when the tariff cut is back-loaded. The decline in government revenue is only marginally lower (0.20%) when the tariff cut is front-loaded. However, during the first period of five years, when the government is assumed to increase its investment by 10 percent, government revenue increased by 0.42 percent before declining by 0.13%. The losses in government revenue are more likely to have resulted from the decrease in tariff revenue – as taxes on imports constitutes a major source of government non-oil revenue. It was noted, however, that government revenue was positive in both the first and second period of the AfCFTA implementation when foreign investment inflow and an increase in labour supply was assumed.

> The possible decline in government revenue as a result of tariff cut with the implementation of the AfCFTA can be mitigated if there is an increase in foreign investment inflow, production and export.

The AfCFTA implementation in Nigeria is expected to create the phenomenon of trade-diversion and this will be more prominent in Nigeria's imports from West African countries and South Africa. Investment is expected to decline in all simulations. The decline in investment is lowest when considerations are made for sensitive products during the implementation of the AfCFTA. With the exclusion of sensitive products, the total investment is expected to decline by -0.15 percent compared with -0.16 percent when there are no considerations for the exclusive list.

The implementation of the AfCFTA has positive impacts on Nigeria's exports. If linear cuts are applied to tariff elimination, aggregate export will increase by 0.02 percent in both the first and second five-year implementation periods respectively. If the tariff elimination is back-loaded, aggregate export is expected to increase by 0.01 percent and 0.03 percent in the first and second implementation periods respectively. Even when tariff elimination is front-loaded, aggregate export will still increase by 0.02 percent in both the first and second five-year implementation periods respectively. When sensitive products are protected from tariff cuts, aggregate export will also increase by 0.02 percent in both the first and second five-year implementation periods respectively.

The simulation results indicate that the AfCFTA tariff liberalization will cause a negligible decline in the household's income. The decline in household's income will be more severe for rural-rich households and urban-rich households. The poor households in both urban and rural households will only experience a marginal decrease in income (averaging about 0.01 percent for both rural and urban poor households). The expected decrease in income of rural and urban rich households will be an average of about 0.02 percent for each household type. However, when government intervention and inflow of foreign investment, as well as the increase in labour supply, are simulated, the tide of negative household income changes is reversed. The above results strongly suggest the existence of opportunities and potential risks associated with the AfCFTA agreement. Further findings include:

1. Macroeconomic and Sectoral Effects of the AfCFTA

(a) Output Effect

A complete elimination of tariffs, phased over 10 years, will result to a 0.02 percent decrease in GDP in the first period and then a 0.05 percent decrease in GDP in the second period. Even when the tariff elimination is front-loaded or back-loaded, GDP will still decrease by 0.01 percent and 0.03 percent respectively in the first period, and 0.04 percent and 0.05 percent respectively in the second period. The decline in GDP may be due to the significant decline in total investment as well as a fall in sectoral outputs (see discussion on sectoral output and Table 6.2). A similar pattern of decrease in GDP is also observed when sensitive products (mainly agricultural and manufactured goods) are protected from trade liberalization. In this case, GDP is expected to decrease by 0.02 percent and 0.04 percent in the first and second periods respectively (Figure 60).

GDP is, however, expected to increase by 0.57 percent and 0.07 percent in the first and second periods respectively when government intervention (10 percent increase in government expenditure combined with linear cuts in tariffs) is simulated. Assuming trade liberalization attracts foreign saving and labour factor - implemented by applying a 5 percent exogenous increase in foreign investment and in labour supply is implemented, the impact on GDP is positive, as the economy is expected to grow by 1.77 percent and 1.62 percent in the first and second periods respectively (Figure 61).

Figure 60: Macroeconomic Effects for Period 1 (A)

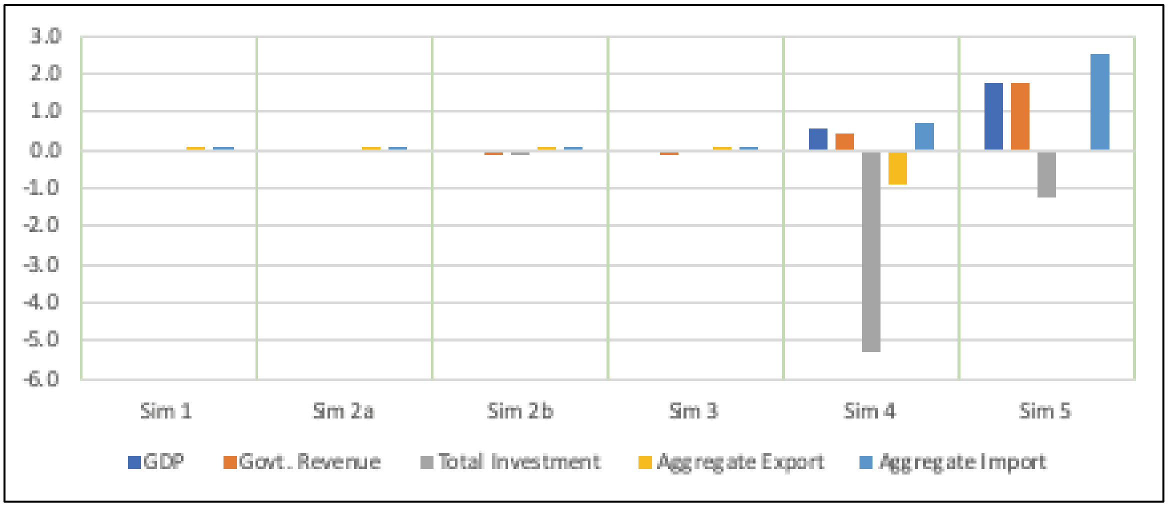
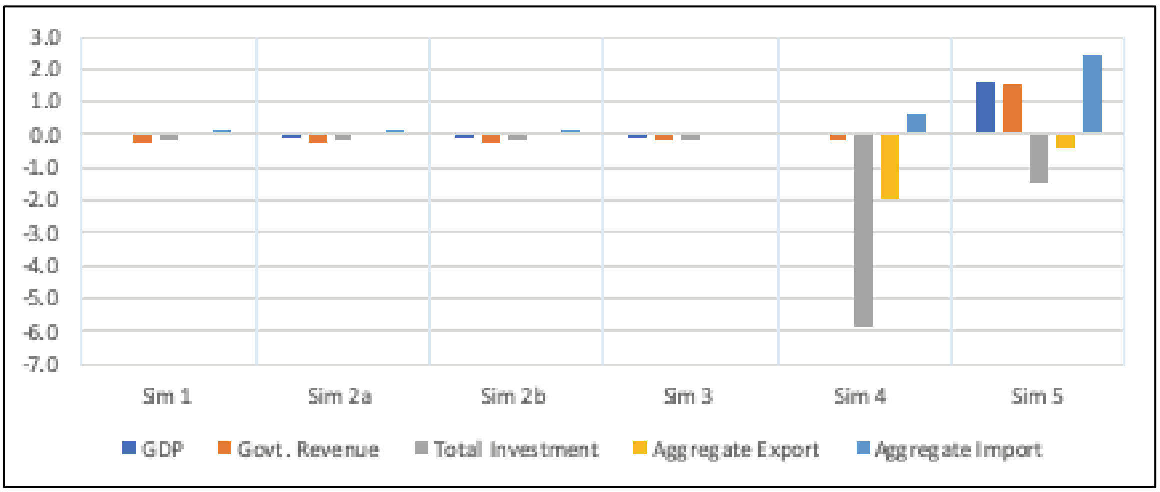


Figure 61: Macroeconomic Effects for Period 2 (B)



(b) Investment Effect

Investment is expected to decline in all simulations. The least negative impact on investment is observed when considerations are made for sensitive products during the implementation of the AfCFTA. With the exclusion of sensitive products, the total investment is expected to decline by 0.15 percent compared with 0.16 percent when there are no considerations for an exclusive list.

The negative effects on investments are, however, more pronounced (up to 5.8%) when the government increases its spending by 10 percent. This is expected as the increase in government expenditure reduces the aggregate savings in the economy. Interestingly, even when foreign investment inflows and increase labour supply are expected, total investment still declined by 1.4 percent in the second period of the AfCFTA implementation.

An intuitive explanation for the expected decline in investment is that the choice of investment destinations will become more competitive with the AfCFTA implementation. This is because enterprises will be able to produce in any African economy they perceive as having the best investment climate and trade their products freely in other African economies with the desired market.

(c) Government Revenue

Government revenue declined in all but one of the scenarios of the AfCFTA, when foreign investment inflow and increased labour supply is assumed. Government revenue declined by 0.21 percent when linear cuts to the tariff cut are applied and when the tariff cut is backloaded. The decline in government revenue is only marginally lower (0.20 percent) when the tariff cut is front loaded. However, during the first period, when the government is assumed to increase its investment by 10 percent, government revenue increased by 0.42 percent before declining by 0.13 percent. The losses in government revenue are more likely to have resulted from the decrease in tariff revenue – as taxes on imports constitutes a major source of government non-oil revenue. It was noted, however, that government revenue was positive in both the first and second period of the AfCFTA implementation when foreign investment inflow and an increase in labour supply was assumed.

(d) Aggregate Export Effect

If linear cuts are applied to tariff elimination, aggregate export will increase by 0.02 percent in both the first and second five-year implementation periods respectively. If the tariff elimination is back-loaded, aggregate export is expected to increase by 0.01 percent and 0.03 percent in the first and second implementation periods respectively. Even when tariff elimination is front-loaded, aggregate export will still increase by 0.02 percent in both the first and second five-year implementation periods respectively. This finding is in agreement with Hoai et al., (2015) where the researchers examined how FTA has affected Vietnam's export of goods. Using country-level data on the total value of exports of goods over the sample of 185 countries from 1990 to 2012 with the gravity model, they found out that Vietnam have positive relationship with the trade outflow.

The increase in aggregate export will be insufficient to compensate the economy for the loss in total investment. Export of textiles, apparel and footwear especially woven fabrics of cotton and textile yarn and thread of natural fibres will be the most significant export commodity, followed by chemical, chemical products, electrical products, then basic metals and motor vehicles. However, it was noted that aggregate export will decrease dramatically by up to 0.90 percent and 1.96 percent when the government increases its spending by 10 percent. If the liberalization strategy assumes inflow of foreign investment and an increase in labour supply, aggregate export is expected to decrease by 0.05 percent and 0.37 percent in the first and second five-year implementation periods respectively.

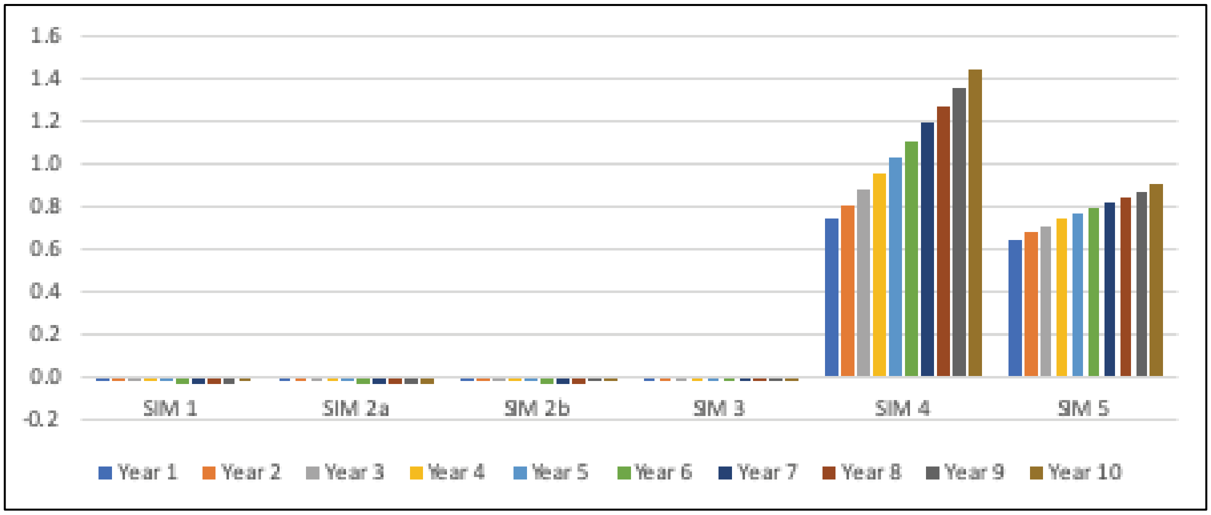
(e) Aggregate Import Effect

Expectedly, aggregate import showed positive results in all simulation scenarios. The increase in import was 0.12 percent (on the average, in the second period), when tariff cut was linear, front loaded or back loaded, and when some sensitive products are excluded from the tariff cut. Import effects are higher (0.61 percent) with an increase in government spending and 2.45 percent when investments flow into the country. The increase in import is expected following the elimination of tariff which leads to lower import prices.

(f) Effect on Prices

Tariff cuts are in general expected to exert downward pressure on prices. These will include consumer price, producer price, price of intermediate consumption, and factor prices. This (see Figure 62) reduction in prices can then be converted into welfare gains in the economy. consumer prices will be in decline throughout the AfCTFA ten-year implementation period. What this means is that consumers of goods and services are expected to pay less for the same quantity of goods and services for goods imported from other African countries.

Figure 62:Effects of Tariff Cuts On Consumer Prices



2. Microeconomic Effects: Household impact of Tariff Reforms in Nigeria under the AfCFTA

It is crucial to comprehend how trade tariffs affect welfare, particularly for households, while creating new trade tariffs or enhancing existing ones. Policymakers can better design and implement tariffs if they have a thorough understanding of how tariffs affect household income and consumption. The welfare of the household is typically the top concern for any government, and one of their main duties is to make sure that this goal is achieved through effective policy coordination. Price changes brought about by a change in tariffs will affect various households differently and hence have distributional effects because families in different income distributions consume different items and get their money from different sources.

> By full implementation of the AfCFTA in Nigeria, it is expected that consumer welfare will increase by 0.06%, however, household income will decline -by 0.05%. Appropriate policies, developed now should be able to close income gap

AfCFTA proposes a gradual reduction in tariff to zero percent by the full implementation term of the Agreement. Base on that proposal a further analysis using the World Bank (2022) *Household Impact of Tariffs Simulation Tool*, presents five scenarios of impact of gradual tariff reduction on household consumption for both staple and non-staple agricultural products (see Table 62). Scenario 1-5 for Nigeria data shows that overall welfare change reflects the following outcome. At 20% trade tariff rate, welfare declined to -0.64%, by full implementation of the AfCFTA (o%) household welfare will increase to 0.06%. This result is similar to consumption gain which rose from a negative value of -1.19% in Scenario 1 to 0.12% in scenario 5. However, the result shows that overall household income may likely decline (by -0.05%) by full implementation of AfCFTA. This is in agreement with the impact assessment of the AfCFTA on the Nigeria economy conducted by the NESG (2019) which states that ''*AfCFTA tariff liberalization will cause a negligible decline in the household's income. The decline in household's income will be more severe for rural rich households and urban-rich household will only experience a marginal decrease in income (averaging about 0.01 percent for both rural and urban poor households''*.

Table 62: Estimated Impact of Tariff Reduction on Household Welfare under the AfCFTA

	Scenario 1 (20% tariff) (Baseline)	**Scenario 2 (14% tariff) Partial implementation of AfCFTA**	**Scenario 3 (10% tariff) Partial implementation of AfCFTA**	**Scenario 4 (6% tariff) Partial implementation of AfCFTA**	**Scenario 5 (0% tariff) full implementation of AfCFTA**
Welfare Change (Overall)	-0.64%	-0.45%	-0.32%	-0.19%	0.06%
Consumption Gains (Overall)	-1.19%	-0.83%	-0.59%	-0.36%	0.12%
Income Gains (Overall)	0.54%	0.38%	0.27%	0.16%	-0.05%
Expenditure Share	49.54%	49.54%	49.54%	49.54%	49.54%
Income Share	24.08%	24.08%	24.08%	24.08%	24.08%

Source: Author's Computation from World Bank Household Impact of Tariffs Simulation Tool. https://www.worldbank.org/en/data/interactive/2022/03/18/household-impacts-of-tariffs-simulation-tool

In addition, household products will be affected differentially with declining tariff under the AfCFTA. As Table 63 illustrates, staple agriculture products will have the highest expenditure shares of 46.09% (almost half of household expenditure all products). However, overall welfare change will increase to 0.07% in the 5th scenario and consumption gains will jump to 0.11%.

Table 63: Estimated Impact of Tariff Reduction on Household Welfare under the AfCFTA- Staple and Non-Staple Agricultural Products

	Scenario 1 (20% tariff) (Baseline)	Scenario 2 (14% tariff) Partial implementation of AfCFTA	Scenario 3 (10% tariff) Partial implementation of AfCFTA	Scenario 4 (6% tariff) Partial implementation of AfCFTA	Scenario 5 (0% tariff) full implementation of AfCFTA
Staple agricultural products					
Welfare Change (Overall)	-0.74%	-0.52%	-0.37%	-0.22%	0.07%
Consumption Gains (Overall)	-1.10%	-0.77%	-0.55%	-0.33%	0.11%
Income Gains (Overall)	0.36%	0.25%	0.18%	0.11%	-0.04%
Expenditure Share	46.09%	46.09%	46.09%	46.09%	46.09%
Income Share	17.67%	17.67%	17.67%	17.67%	17.67%
Non-Staple agricultural Products					
Welfare Change (Overall)	0.10%	0.07%	0.05%	0.03%	-0.01%
Consumption Gains (Overall)	-0.08%	-0.06%	-0.04%	-0.03%	0.01%
Income Gains (Overall)	0.18%	0.13%	0.09%	0.05%	-0.02%
Expenditure Share	3.44%	3.44%	3.44%	3.44%	3.44%

Income Share	6.44%	6.41%	6.41%	6.41%	6.41%

Source: See the World Bank webpage for calculations https://www.worldbank.org/en/data/interactive/2022/03/18/household-impacts-of-tariffs-simulation-tool

A further analysis of the staple agricultural product at 20% baseline (scenario 1) and 0% tariff at AfCFTA (Scenario 1) reveal the following:

a. Price Change

At baseline of 20% tariff before the introduction of an FTA, prices were 3.33% for 13 product lines. These products include Apples, Banana, Beef (Cattle), Cheese and Citrus. Others are Grapes, Greens, and Other Crustacean. Table 64 shows that by tariff elimination, prices of these products have fallen, which will be affordable by households. To determine the price change due to tariff, a proportional change in tariffs was estimated. At 0%, presumably the tariff elimination scenario, price change was negative[33], which implies a declining price per product signaling an improvement in consumer welfare. Further analysis of the price change shows that at tariff elimination, price decline in certain products such as vegetable oil was -0.48%.

Table 64: Household Product Price Change (from 20% to 0% tariff)

Product	Avg. Initial Tariff	New Tariff	Price Change (Baseline Scenario) 20%	New Tariff	Price change (Tariff Elimination) 0%
Animal Fats	12.44%	14.92	2.21%	12.19	-0.22%
Apples	20.00%	24.00	3.33%	19.60	-0.33%
Banana	20.00%	24.00	3.33%	19.60	-0.33%
Beans	5.00%	6.00	0.95%	4.90	-0.10%
Beef (Cattle)	19.99%	23.99	3.33%	19.59	-0.33%
Cheese	20.00%	24.00	3.33%	19.60	-0.33%
Citrus	20.00%	24.00	3.33%	19.60	-0.33%
Corn	5.00%	6.00	0.95%	4.90	-0.10%
Eggs	20.00%	24.00	3.33%	19.60	-0.33%
Fish	10.76%	12.91	1.94%	10.54	-0.19%

[33] Negative pricing can occur when demand for a product drops or supply increases to an extent that owners or suppliers are prepared to pay others to accept it, in effect setting the price to a negative number.

Grapes	20.00%	24.00	3.33%	19.60	-0.33%
Greens	20.00%	24.00	3.33%	19.60	-0.33%
Milk	6.52%	7.83	1.22%	6.39	-0.12%
Other Cereals	5.00%	6.00	0.95%	4.90	-0.10%
Other Crustacean	20.00%	24.00	3.33%	19.60	-0.33%
Other Dairy	9.98%	11.98	1.82%	9.78	-0.18%
Other Fruits	6.85%	8.23	1.28%	6.72	-0.13%
Other Legumes	5.00%	6.00	0.95%	4.90	-0.10%
Other meat/animals	19.97%	23.96	3.33%	19.57	-0.33%
Other oils/fats	5.10%	6.12	0.97%	5.00	-0.10%
Other processed food	16.33%	19.60	2.81%	16.00	-0.28%
Other staple food	20.00%	24.00	3.33%	19.60	-0.33%
Other Vegetables	18.13%	21.75	3.07%	17.76	-0.31%
Pork (Pig)	6.83%	8.20	1.28%	6.70	-0.13%
Potato	18.75%	22.50	3.16%	18.38	-0.32%
Poultry (Chicken)	5.00%	6.00	0.95%	4.90	-0.10%
Rice	9.96%	11.95	1.81%	9.76	-0.18%
Shrimp	20.00%	24.00	3.33%	19.60	-0.33%
Tomato	20.00%	24.00	3.33%	19.60	-0.33%
Vegetable Oils	31.61%	37.93	4.80%	30.98	-0.48%
Wheat	5.00%	6.00	0.95%	4.90	-0.10%

b. ***<u>Product impact</u>***

Vegetable products leads the welfare maximizing products with elimination of tariff on household goods. At baseline of 20% before the introduction of an FTA such as the AfCFTA, welfare change was negative (see Table 65, Column 3). However, Table 5 shows that welfare improved drastically with the decline of tariff to 0%. Vegetable oil witnessed the largest price decline of -0.48% compare to other products in that table. The table shows that by the elimination of tariff, prices decline for almost all products. The highest decline was witnessed for the following products: Diary Products (Cheese and eggs, at -0.33% respectively); Fish products (0.33%), all fruits (Banana, Citrus, Grapes and other fruits, all declines at 0.33%). Meat especially cattle meat declined tremendously. However, green vegetables contributed more to welfare change and consumption gain at 0.04% respectively. Nigeria consumers are set to benefit from welfare change that the AfCFTA will bring. In the terms of consumption gain, table 5 shows the consumer are set to benefit albeit minimally (Table 66).

Table 65: Product Impact at 20% tariff

Product Group	Product	Welfare Change	Consumption Gains	Income Gains	Expenditure Share	Avg. Income
Cereals	Corn	0.02%	-0.02%	0.04%	2.05%	3.98%
	Other Cereals	0.01%	-0.01%	0.02%	1.08%	1.71%
	Rice	-0.08%	-0.10%	0.02%	5.66%	1.17%
	Wheat	-0.02%	-0.02%	0.00%	2.42%	0.00%
Dairy/Eggs	Cheese	0.00%	0.00%	0.00%	0.05%	0.00%
	Eggs	-0.01%	-0.01%	0.00%	0.27%	0.04%
	Milk	-0.01%	-0.01%	0.00%	0.94%	0.06%
	Other Dairy	0.00%	0.00%	0.00%	0.00%	0.02%
Fish	Fish	-0.10%	-0.11%	0.01%	5.41%	0.50%
	Other Crustacean	-0.01%	-0.01%	0.00%	0.31%	0.00%
	Shrimp	0.00%	0.00%	0.00%	0.00%	0.00%
Fruits	Apples	0.00%	0.00%	0.00%	0.00%	0.00%
	Banana	0.00%	0.00%	0.00%	0.12%	0.14%
	Citrus	0.00%	0.00%	0.00%	0.15%	0.05%
	Grapes	0.00%	0.00%	0.00%	0.00%	0.00%
	Other Fruits	0.00%	0.00%	0.00%	0.09%	0.27%
Legumes	Beans	-0.02%	-0.04%	0.02%	4.02%	1.83%
	Other Legumes	-0.01%	-0.01%	0.00%	1.13%	0.10%
Meat/Livestock	Beef (Cattle)	-0.10%	-0.10%	0.00%	2.96%	0.00%
	Other meat/animals	-0.05%	-0.05%	0.00%	1.59%	0.00%
	Pork (Pig)	0.00%	0.00%	0.00%	0.08%	0.00%

	Poultry (Chicken)	0.00%	0.00%	0.00%	0.29%	0.00%
Oils/Fats	Animal Fats	0.00%	0.00%	0.00%	0.04%	0.00%
	Other oils/fats	-0.01%	-0.01%	0.00%	1.13%	0.12%
	Vegetable Oils	-0.13%	-0.14%	0.01%	2.97%	0.29%
Other staple food	Other processed food	-0.03%	-0.03%	0.00%	0.92%	0.00%
	Other staple food	0.01%	0.00%	0.01%	0.00%	0.40%
Vegetables	Greens	-0.36%	-0.36%	0.00%	10.92%	0.12%
	Other Vegetables	0.21%	0.00%	0.21%	0.00%	6.70%
	Potato	0.00%	0.00%	0.00%	0.00%	0.02%
	Tomato	-0.04%	-0.05%	0.01%	1.49%	0.15%

Table 66: Product impact at 0% tariff

Product Group	**Product**	**Welfare Change**	Consumption Gains	Income Gains	Expenditure Share	Avg. Income
Cereals	Corn	0.00%	0.00%	0.00%	2.05%	3.98%
	Other Cereals	0.00%	0.00%	0.00%	1.08%	1.71%
	Rice	0.01%	0.01%	0.00%	5.66%	1.17%
	Wheat	0.00%	0.00%	0.00%	2.42%	0.00%
Dairy/Eggs	Cheese	0.00%	0.00%	0.00%	0.05%	0.00%
	Eggs	0.00%	0.00%	0.00%	0.27%	0.04%
	Milk	0.00%	0.00%	0.00%	0.94%	0.06%
	Other Dairy	0.00%	0.00%	0.00%	0.00%	0.02%
Fish	Fish	0.01%	0.01%	0.00%	5.41%	0.50%
	Other Crustacean	0.00%	0.00%	0.00%	0.31%	0.00%
	Shrimp	0.00%	0.00%	0.00%	0.00%	0.00%
Fruits	Apples	0.00%	0.00%	0.00%	0.00%	0.00%

	Banana	0.00%	0.00%	0.00%	0.12%	0.14%
	Citrus	0.00%	0.00%	0.00%	0.15%	0.05%
	Grapes	0.00%	0.00%	0.00%	0.00%	0.00%
	Other Fruits	0.00%	0.00%	0.00%	0.09%	0.27%
Legumes	Beans	0.00%	0.00%	0.00%	4.02%	1.83%
	Other Legumes	0.00%	0.00%	0.00%	1.13%	0.10%
Meat/Livestock	Beef (Cattle)	0.01%	0.01%	0.00%	2.96%	0.00%
	Other meat/animals	0.01%	0.01%	0.00%	1.59%	0.00%
	Pork (Pig)	0.00%	0.00%	0.00%	0.08%	0.00%
	Poultry (Chicken)	0.00%	0.00%	0.00%	0.29%	0.00%
Oils/Fats	Animal Fats	0.00%	0.00%	0.00%	0.04%	0.00%
	Other oils/fats	0.00%	0.00%	0.00%	1.13%	0.12%
	Vegetable Oils	0.01%	0.01%	0.00%	2.97%	0.29%
Other staple food	Other processed food	0.00%	0.00%	0.00%	0.92%	0.00%
	Other staple food	0.00%	0.00%	0.00%	0.00%	0.40%
Vegetables	Greens	0.04%	0.04%	0.00%	10.92%	0.12%
	Other Vegetables	-0.02%	0.00%	-0.02%	0.00%	6.70%
	Potato	0.00%	0.00%	0.00%	0.00%	0.02%
	Tomato	0.00%	0.00%	0.00%	1.49%	0.15%

c. _Tariff effect on Wealth Quintiles

By wealth quintiles, all household income group saw a decline in their welfare pre-to AfCFTA implementation, with average decline of -0.02% across all income groups. Although income gains remain positive, consumption gain was negative, which may have resulted in decline in welfare (Table 67). However, Table 68 shows that overall welfare improved for 3rd and 4th wealth quintiles of the population at 0.08% and consumption gain roses to 0.12%. Income gain overall decline for all quintiles, while expenditure shares remain high amidst the reduction in tariff. This implies that Zero-rated tariff, do not necessarily increase income as expenditure for staples products remain high.

Table 67: Tariff effect by Wealth Quintile (20% tariff)

Wealth Quintiles	Welfare Change (Overall)	Consumption Gains (Overall)	Income Gains (Overall)	Expenditure	Income	Welfare Change
Bottom Quintile	-0.69%	-0.94%	0.26%	38.50%	15.62%	-0.02%
2nd Quintile	-0.74%	-1.14%	0.40%	48.07%	21.50%	-0.02%
3rd Quintile	-0.81%	-1.19%	0.37%	49.97%	18.66%	-0.03%
4th Quintile	-0.78%	-1.17%	0.39%	49.06%	16.85%	-0.03%
Top Quintile	-0.69%	-1.07%	0.38%	44.87%	15.73%	-0.02%

Table 68: Tariff effect by Wealth Quintile (0% tariff)

Wealth Quintiles	Welfare Change (Overall)	Consumption Gains (Overall)	Income Gains (Overall)	Expenditure	Income
Bottom Quintile	0.07%	0.09%	-0.03%	38.50%	15.62%
2nd Quintile	0.07%	0.11%	-0.04%	48.07%	21.50%
3rd Quintile	0.08%	0.12%	-0.04%	49.97%	18.66%
4th Quintile	0.08%	0.12%	-0.04%	49.06%	16.85%
Top Quintile	0.07%	0.11%	-0.04%	44.87%	15.73%

d. Distributive Impact of Tariff Elimination from 20% to 0%

i. Effect of maintaining a 20% tariff

In all cases, impact of tariff elimination on households are not linear, which implies that other factors can affect households that tariff alone. Nevertheless, the correlation between consumption gain (% change in real income) and per capita income was most cluster around the trending line for welfare gain and consumption gain compare to income gain, which indicates partial improvement in consumers' condition. Maintaining tariff at 20% was depressing for consumer welfare as depicted in the declining welfare gain in figure 63 and consumption gains in figure 64. The income gain was positive as depicted in figure 65.

Figure 63: Distribution impact of Tariff elimination - Welfare gain_20%

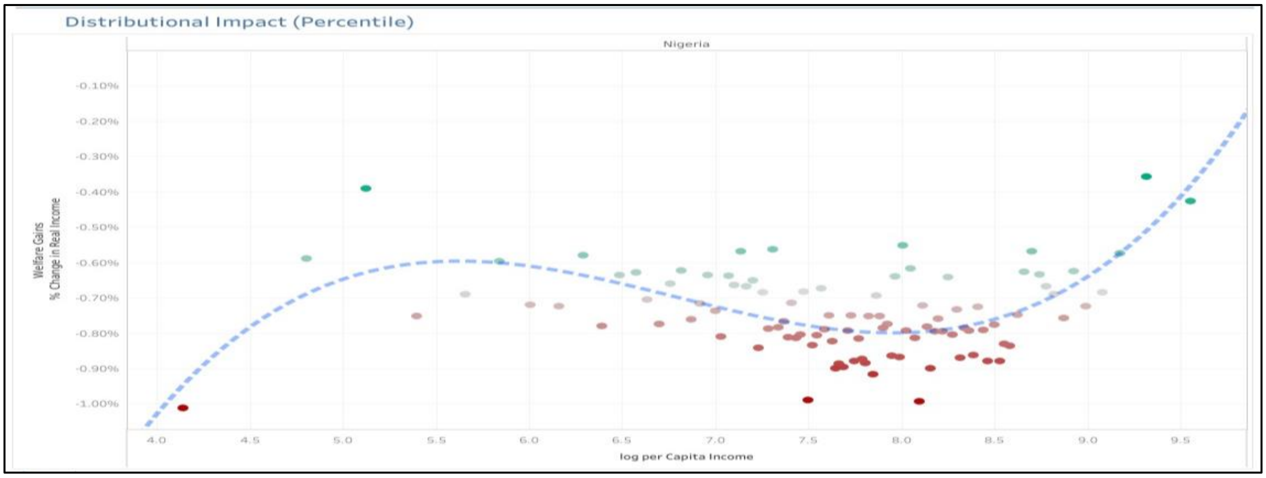


Figure 64: Distribution impact of Tariff elimination_Comsumption gain_20%

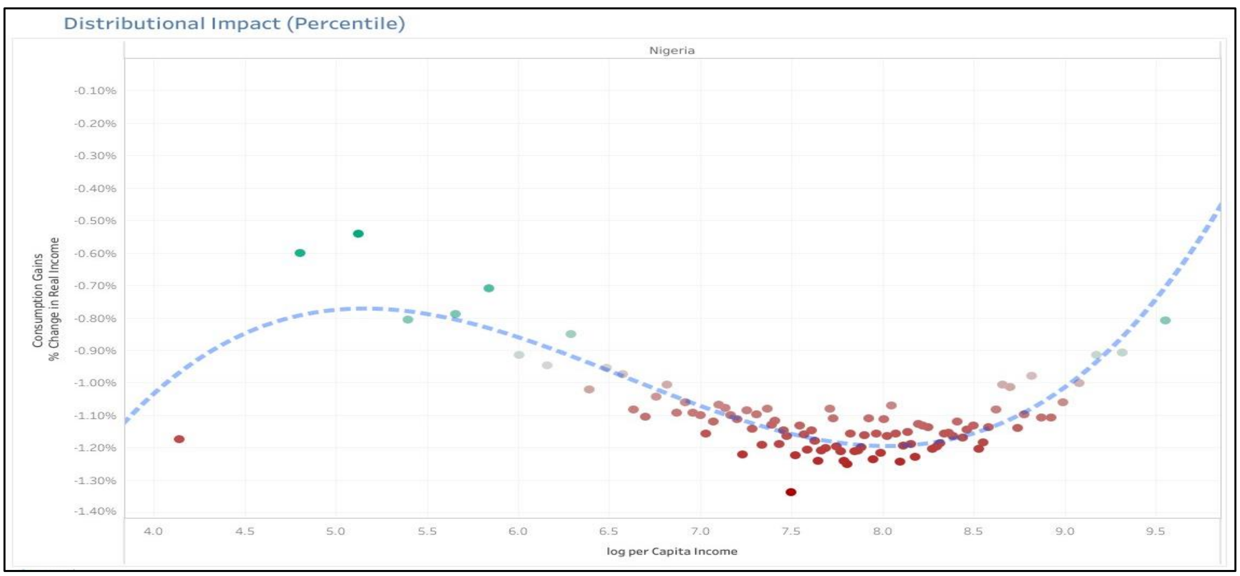
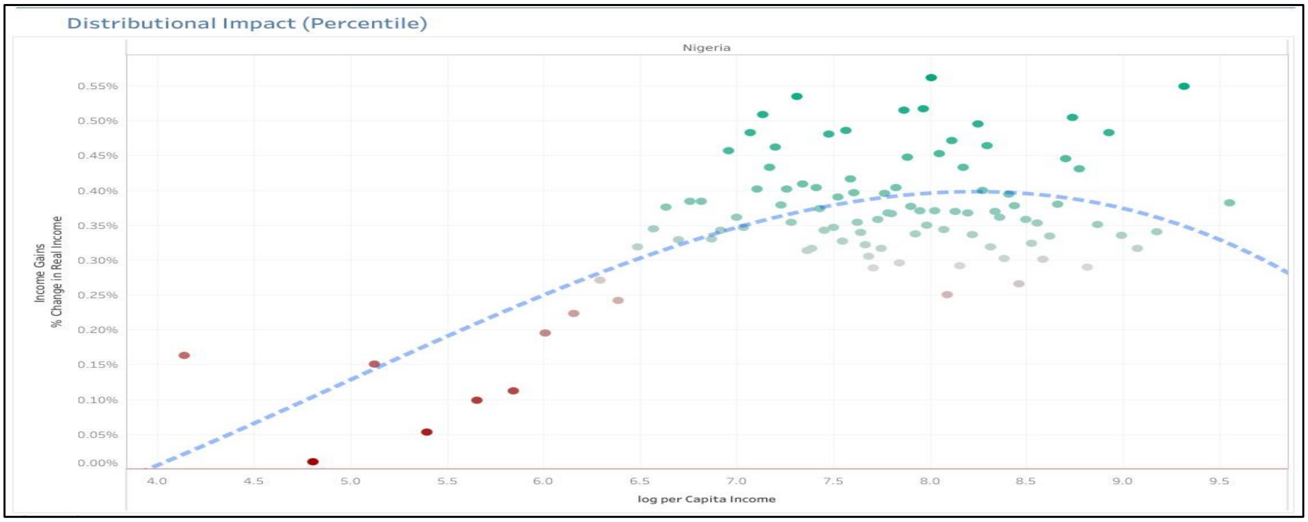


Figure 65: Distibution impact of Tariff elimination_Income gain_20%



ii. Effect of eliminating tariff (0%)

The distribution impact of tariff shows that household consumption of stable agriculture product increase with elimination of tariff. Income gain still remain negative with tariff elimination. See figure 66-68.

Figure 66: Distibution impact of Tariff elimination_Welfare gain_0%

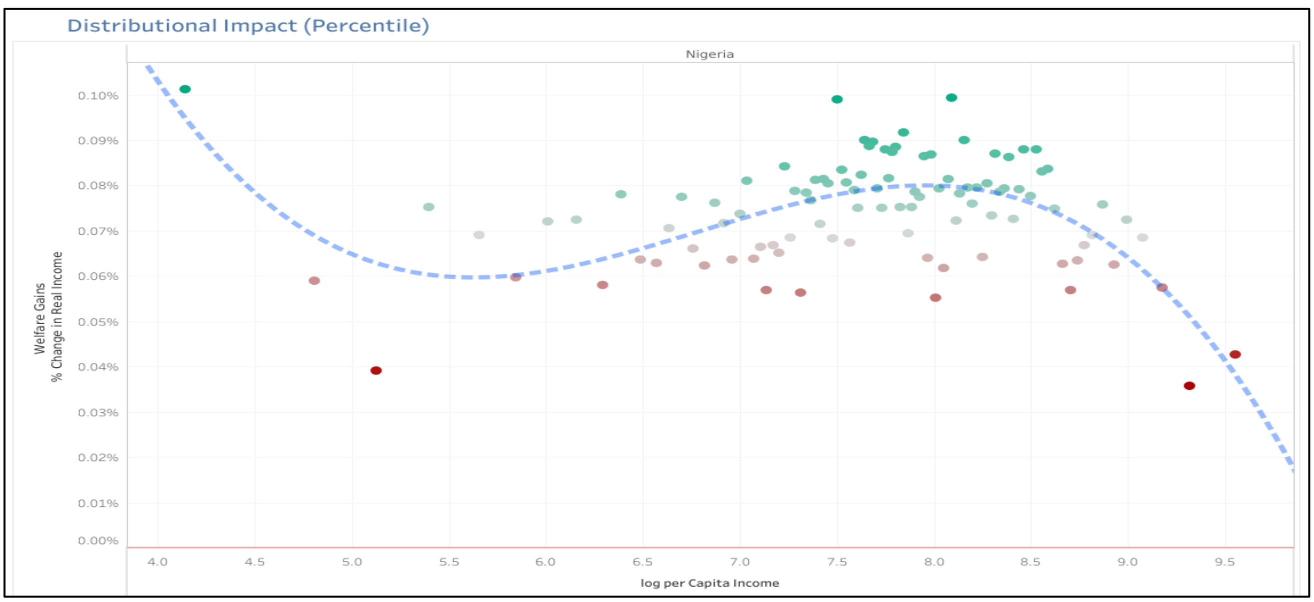


Figure 67: Distibution impact of Tariff elimination_Comsumption gain_0%

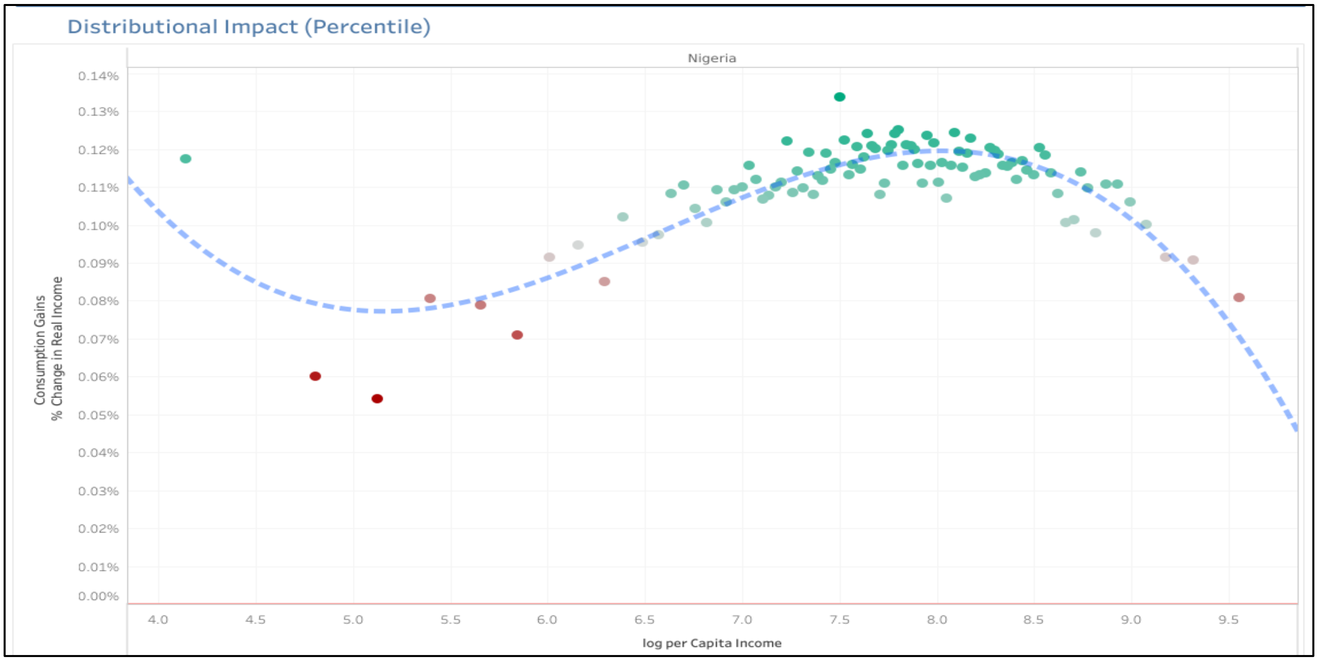
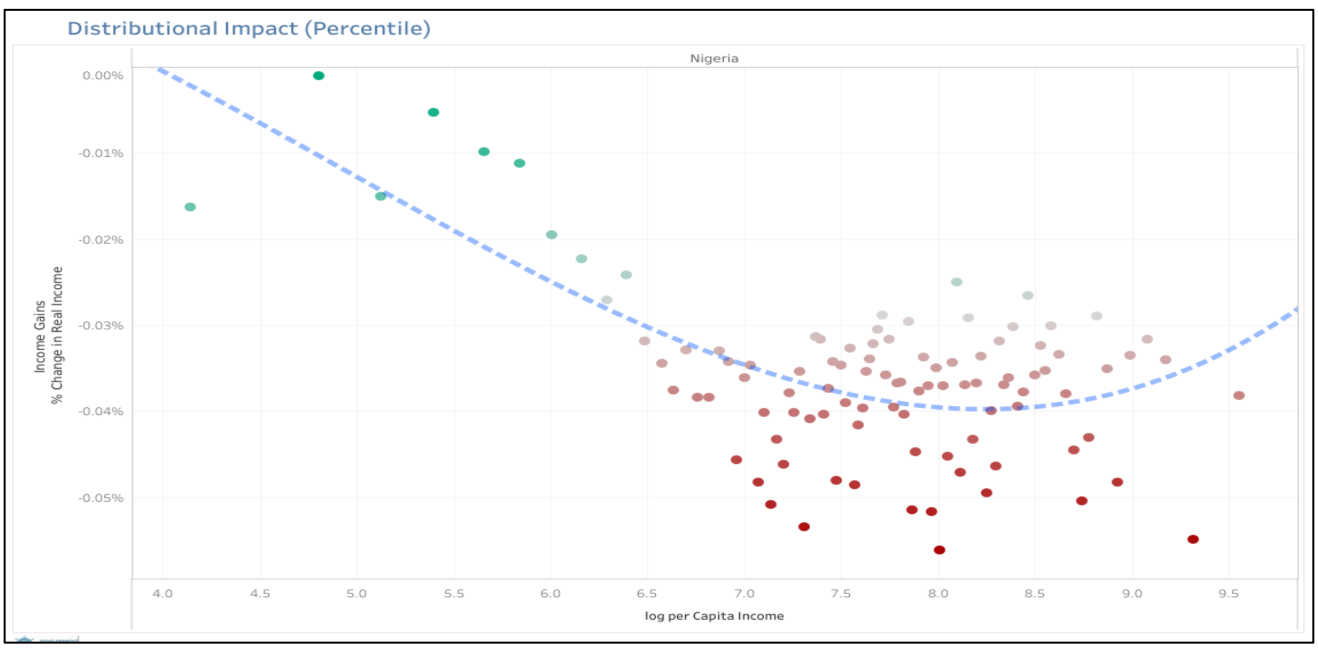


Figure 68: Distibution impact of Tariff elimination_Income gain_0%



SECTION VI: REGIONAL HARMONIZATION INCIDENCES OF TAX AND CUSTOMS ON NIGERIA

A. Regional Harmonization of Tax for Trade

Nigeria policy framework with regards to international trade agreements is contained in the National Tax policy of 2017. Article 2.2.7 of the National Tax Policy, 2017 contains Nigeria's tax position with regards to international and regional treaties, which certainly include the ECOWAS Treaty and the AfCFTA Agreement. Trade agreements binding Nigeria are expected to prevent double taxation without creating opportunities for non-taxation.

New trade agreements, like AfCFTA, is expected to confer benefits to Nigeria in the short, medium, and long terms. Under Article 3 of the ECOWAS Revised Treaty, one of the main objectives of establishing ECOWAS is to promote co-operation and integration, leading to the establishment of an economic union in West Africa. This is to be achieved through the liberalization of trade by the abolition, among Member States, of customs duties levied on imports and exports, and the abolition among Member States, non-tariff barriers in order to establish a free trade area at the Community level; the adoption of a common external tariff and a common trade policy vis-à-vis third countries; and the removal, between Member States, of the obstacles to the free movement of persons, goods, services and capital, and the right of residence and establishment. The instrument created for this purpose is the ECOWAS Trade Liberalisation Scheme (ETLS). The ETLS is a tool which aims at the operationalization of the Free Trade Area. The ETLS mechanism ensures the free movement of originating products without the payment of customs duties and taxes of equivalent effect on importation into ECOWAS Member States.

Free movement of goods has its attendant challenge of reduction of customs revenue. Besides the customs duties forgone based on non-payment of duties on goods originating from Member States, Pursuant to the rule of origin principle, ECOWAS collect taxes at varying rates thereby distorting the purpose of economic integration. ECOWAS viewed that Harmonization of customs duties in West Africa through the Common External Tariff of Fiscal measures would not promote its aims and objectives. It was on this premise that ECOWAS issued its first Fiscal Directive in 2009.

1. Tax Directives issued so far by ECOWAS

In other to achieve equilibrium in the fiscal ecosystem, ECOWAS has issued several directives for implementation by Member States. The first directive was issued in relation to Directive C/DIR.1/05/09 on the Harmonization of the ECOWAS Member States' Legislations on Value Added Tax (VAT). In 2013, ECOWAS issued Directive C/DIR.1/12/13 Adopting the ECOWAS Tax Transition Programme. This was subsequently amended in 2017 by Directive C/Dir.2/12/17 known as Harmonization of the Laws of ECOWAS Member States on Value Added Tax. In July, 2023 ECOWAS proceeded to issue the following fiscal directives: (i) Directive C/DIR.3/7/23 on the Harmonization of the Legislations of ECOWAS Member States on Excise Duties; (ii) Directive C/DIR.5/7/23 on the Harmonization of the Legislations of ECOWAS Member states on VAT; (iii) Directive C/DIR.6/07/23, on Harmonizing the Laws of Transfer Pricing Rules within ECOWAS Member States; (iv) Directive C/DIR.7/07/23 on Model Code of Ethics and Conduct for Tax Administrations of ECOWAS Member States; (v) Directive C/DIR.8/07/23, on Harmonizing the Laws of ECOWAS Member States on Value Added Tax (VAT); (vi) Directive C/DIR.4/07/23, on Harmonization of the Laws of the Methodology for the Evaluation of tax Expenditures in ECOWAS Member States; (vii) Supplementary Act A/SA.3/07/23 on Mutual Administrative Assistance in Tax Matters between ECOWAS Member States; (viii) Directive C/DIR.5/07/23 on the Creation of the Institutional Mechanism for Monitoring and Evaluating the ECOWAS Fiscal Transition; (ix) Directive C/DIR.4/07/23, on Harmonization of Rules on Beneficial Ownership of Legal Entities within ECOWAS Member States;

ECOWAS in its quest to Fastrack Harmonization had earlier adopted Directive C/DIR.1/12/13 Adopting the Community Tax Program in Abidjan on 17th July, 2013. The adoption was in line with the revised ECOWAS Treaty (July 1993) which restated the Community's objectives, including harmonization and coordination of national policies and promotion of programmes, projects and activities in areas such as trade, taxation, etc. The shift of the tax pressure to domestic taxes for sustained mobilization of domestic resources to finance development and social policies in Member States became a priority.

The objectives of the Program include: consolidate the common market under construction within the ECOWAS space; sustain the economic growth of states through the financing of development and social policies from internal fiscal resources; strengthen the capacities and the synergy between the tax and customs administrations for the mobilization of adequate tax and customs resources; and modernize the customs and tax administrations

The axis of intervention involves the following: capacity building for tax and customs administrations, general facilities, logistics, human resource, information systems, tax and customs procedures and operation; dematerialization of files will facilitate information search and sharing between the various financial authorities; control and expansion of the tax base; streamlining of strategies for combating customs and tax fraud and corruption within customs and tax administrations; and improvement in customs and tax revenue collection.

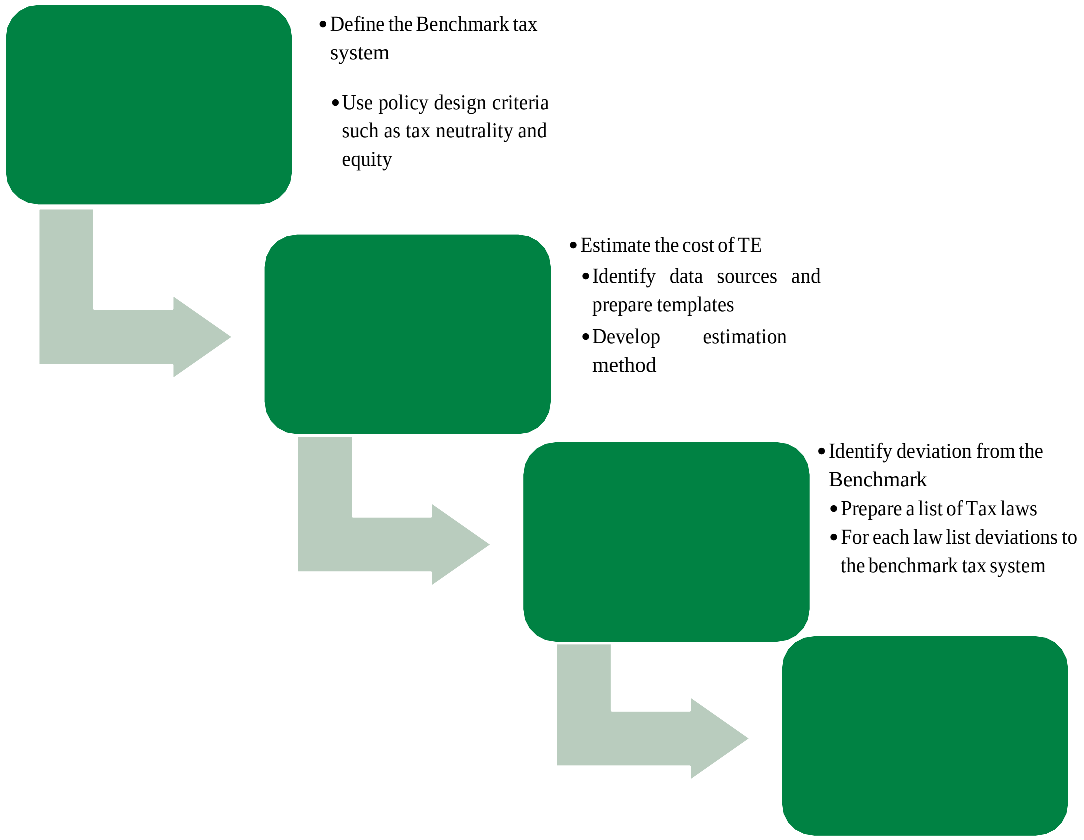
Since 2020, ECOWAS has developed actions for many actions are developed for strengthening tax monitoring and management systems in ECOWAS. While these challenges have dogged the efforts:

a. Consolidation, transfer, and appropriation of the indicators and database for monitoring the fiscal transition to the UEMOA and ECOWAS statistics centers, in accordance with the instructions of the ECD Commissioner and the ECOWAS Statistics Directorate;
b. Definition of the missions of the national steering committees (NSCs) of the national tax transition programs;
c. Raising the awareness of National Economic Policy Committees (CNPE) and National Coordination Committees (NCC) about steering and monitoring the tax transition.
d. The development of a model national tax transition program (NTTP) in countries that do not have one;

2. Monitoring and Evaluation of Tax Expenditures

ECOWAS has adopted a participatory approach to the current state of tax expenditure management and management of investment tax incentives in West Africa. It has also developed tax expenditure management tools. In the developed management tools, ECOWAS has identified points of Harmonization of methods; collection grid for tax expenditure, and data collection grid for investment tax incentives. It has also designed testing tools for tax expenditures as well as to how to implement these tools. ECOWAS has, in the same vein provided steps to follow in the preparation of Tax Expenditure Reports. These steps are to define the Benchmark Tax System (BTS), estimate the cost of Tax expenditure (TE), and to identify the deviation from the benchmark. Figure 69 below is a diagrammatic expression of these steps.

Figure 69: Steps in the Preparation of Tax Expenditure Reports



ECOWAS has provided templates for tax expenditure administration in Member States (Fig. 2) and information to be included in TE Reports (Figure 70-71). On TE administration, ECOWAS template suggests that the Tax Policy Unit of the Ministry of Finance in each Member State should play the central role. With regards to the information to be included in TE Reports, ECOWAS template provides for comprehensive listing of TE, definition of benchmark, measurement of framework, provision of detailed information on TE by Sector, tax type, policy justification for the TE, and duration of the TE including express indication sunset clauses. The TE Report beyond reporting tax types should also contain the percentage of GDP of the TE and the percentage against total revenues (Table 69).

Figure 70: Tax Expenditures Administration in Members States: Developments and Reforms

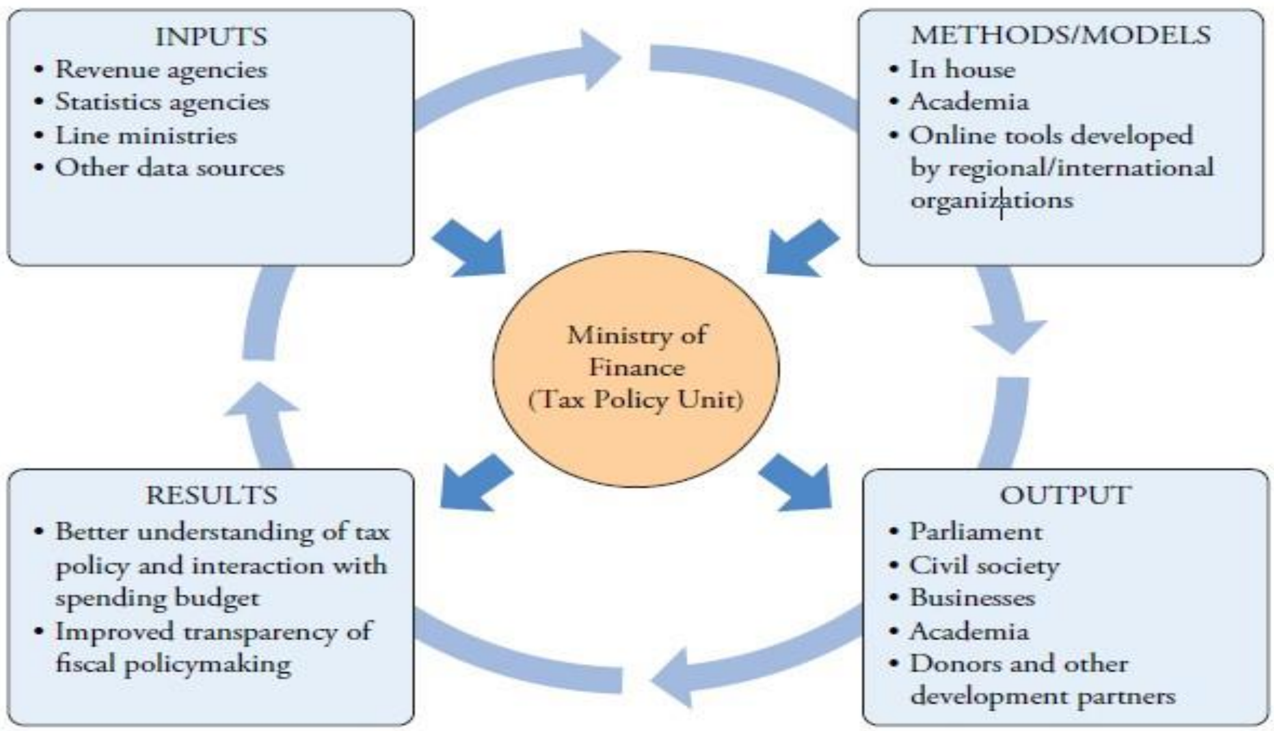


Figure 71:Information to be Included in the TE Report

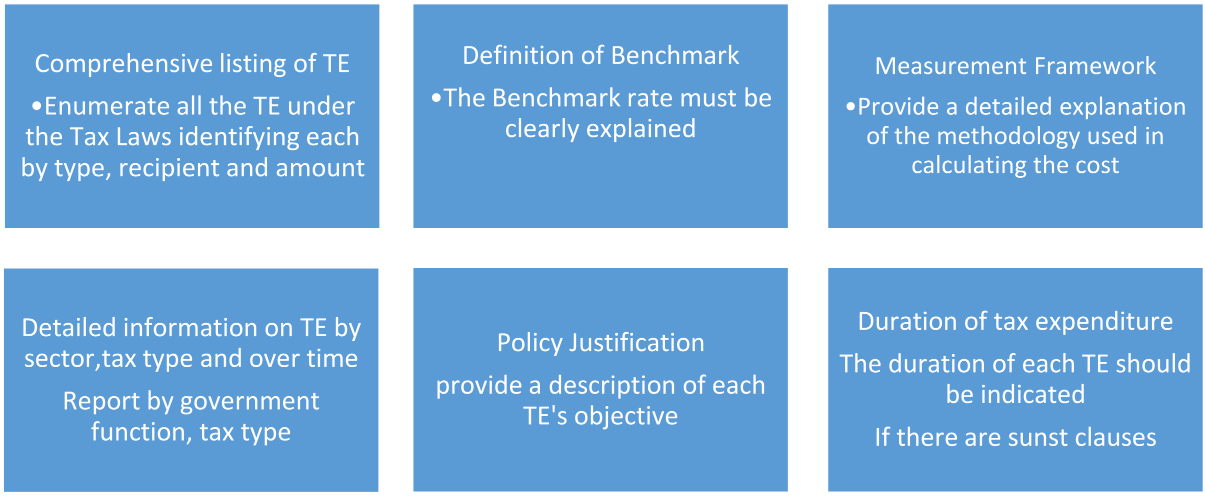


Table 69: Data on TE management (Analytical Report On Tax Expenditure - PATF)

Performance area of ECOWAS Member States	**Year 2020**	**Year 2023**	**Comments**
Number of countries that carry out annual evaluations of tax expenditure	13 (81%)	14 (93%)	Scheduled for Cape Verde and Gambia Guinea Bissau committed since 2022
Share of VAT tax expenditure/Total tax Expenditure	60,22%	65%%	Ghana, Nigeria and Mauritania notassessed
Tax expenditure as a % of GDP	2,9 %	3,2%	Broadening the scope of assessments
Share of tax expenditure (% of tax revenue)	17%	19%	Broadening the scope of assessments
Rate of evaluation of derogation measures: measures identified/measures evaluated	56%	60%	38.5% (Mali), 54.3% (Benin) and 77.3% (Burkina Faso)
Number of countries attaching their report to the Finance Act	08 (50%)	08 (50%)	Requirements of the Directive and the Metrology Guide
Number of countries that evaluate the economic or social impact of tax expenditure	0	06 (37%)	From PATF funding

3. Harmonization of Tax Expenditure Assessment Methodology

The relevant ECOWAS Directive C/Dir.4/07/23 on Harmonization of the Laws of the Methodology for the Evaluation of Tax Expenditures in ECOWAS Member States has defined the operative terms of tax expenditure, tax incentive and the benchmark tax system. It has provided for period of evaluation of TE, scope of TE evaluation, procedures for determining the reference tax system, methods of evaluating TE, data sources for evaluating TE and monitoring tax incentives, structure of the TE, and for the transmission, publication and dissemination of reports evaluating TE.

PATF supports the management and evaluation of TE to inform decision-making on tax incentives. PATF aims to define a common methodology for the quantification of TE; implement systematic cost cost-benefit analyses of TE; define and harmonize the structure of the TE Report to be produced by each ECOWAS Member State; Support the implementation of tax incentives policies; and enhance the transparency around TE including the publication and dissemination of findings to tax administrations, civil society, parliaments, and other stakeholders. PATF has developed a regional template/matrix for the assessment of TE, which is used in Nigeria for Value Added Tax and Import duties.

The matrix contains the list of relief measures in the rows while the columns compile the following information; the national code system; the National Tariff and Statistical (NTS) Code for products [the Tariff and Statistical Nonmature based on the harmonized commodity Description and Coding System (HS) of the World Customs Organization (WCO)]; the reference or legal basis; the wording of the derogation measure; compliance for non-compliance with the community Directives such as Directive C/Dir.1/05/09 on the Harmonization of the ECOWAS Member States' Legislations on VAT); the nature of exemption (TE or non-TE); evaluation of the measure as to whether it is in the affirmative or other wise; taxes concerned ; types of derogation (e.g. rate reduction, total exemption, tax holiday, tax credit); basic elements of taxation (e.g. customs values, turnover, profits); whether the scope is temporary or permanent; objectives of the TE; sectors of activity; beneficiaries and the number of beneficiaries; budgetary function; structures; data source; method of calculations; amount of the TE; year of adoption of the measure; status of the measure in the founding legal text; and the observations/comments.

4. FERDI template on Tax Expenditures Reporting

The Foundation for International Development Study and Research (FERDI) has developed a process for TE reporting. Several steps are involved in the process:

a. The Legislation subgroup identifies the tax expenditures. This entails: (i) preparing an inventory of the legislation; (ii) describing the general regime; (iii) listing all relief measures; (iv) choosing the benchmark tax system (BTS) and identifying those relief measures that constitute TEs (i.e., those that deviate from the BTS and result in a definitive loss of revenue for the state) and; (v) preparing an interim report to be approved by the Ministry of Finance and submitted to the Evaluation sub-group;

b. The Evaluation subgroup conducts the evaluation of the budgetary cost of TEs. This entails: (vi) selecting the estimation method; (vii) defining the scope of the evaluation and collecting the data; (viii) calculating the tax expenditures and; (ix) preparing an interim report on the budgetary evaluation of TEs ;

c. Both subgroups draft the final TEs report which shall be sent for approval to a decision-making entity, such as a "tax policy committee" that reports directly to the Minister of Finance. The approved report shall be published as an annex to the finance bill for debate in the parliament annually.

5. Choice of the BTS and Identification of TEs

The fourth step defines the BTS and determines whether the identified relief measures (i) deviate from it and (ii) result in a definitive loss of revenue for the state. If both conditions are met, the relief measure constitutes a TE.

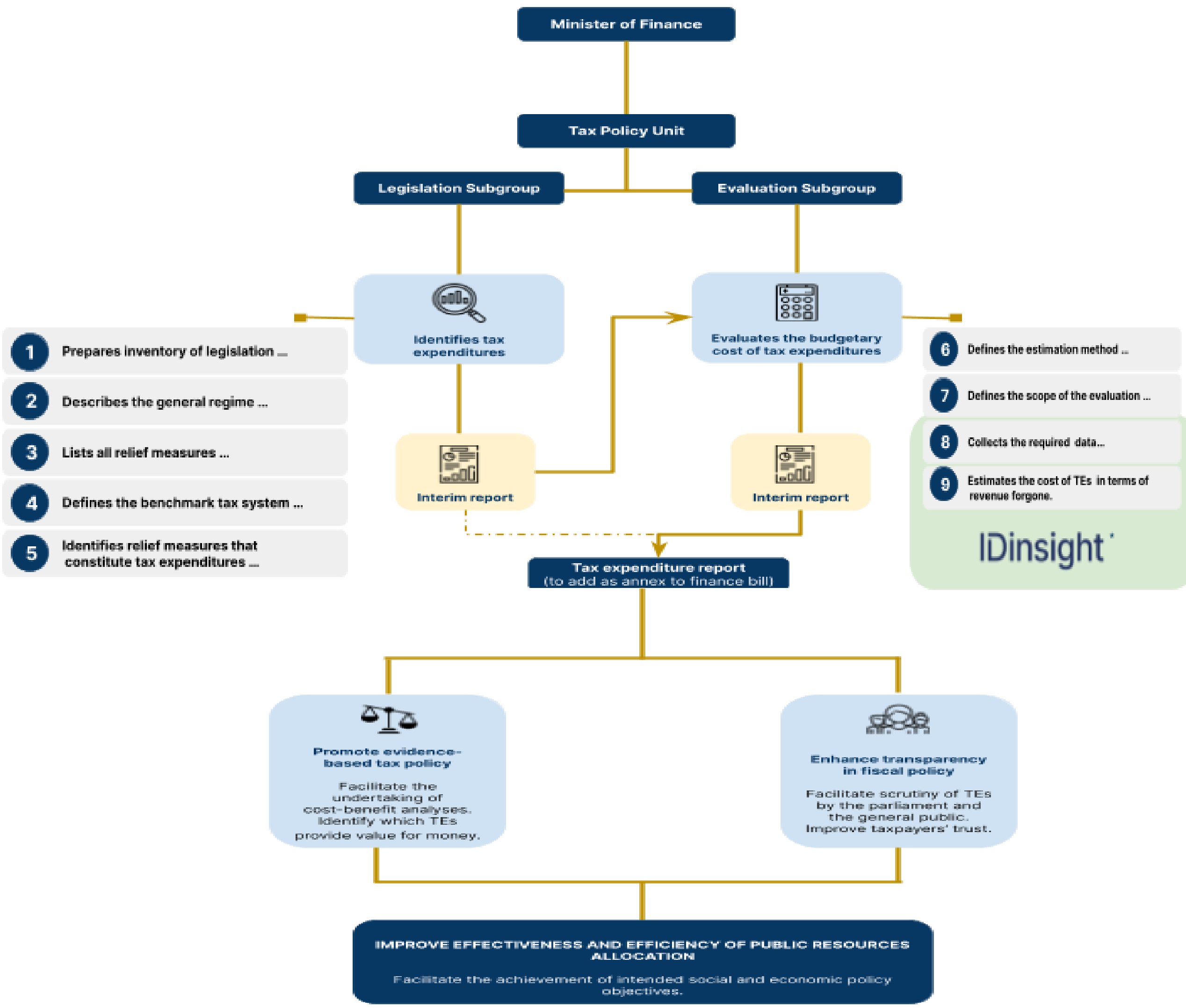
FERDI describes two approaches to defining the BTS:

i. The normative approach, which defines the BTS as an ideal to be attained or the 'optimal' design of the tax system from an economic and tax policy perspective. For instance, a normative BTS for an excise duty rate on alcohol might be set at a rate such that the external costs of consuming a litre of alcohol are fully internalised (Granger, McNabb & Parekh, 2022) ;

ii. The positive approach, which defines the BTS based on the existing ordinary tax law. This is the most commonly adopted practice.

The BTS is a national tax policy decision. Authorities decide which relief measures are included in the BTS, making comparisons of tax expenditures across countries difficult, as one provision may lead to a TE in one country but not another. As mentioned earlier, any relief measure that falls within the definition of the BTS does not constitute a TE, thus precluding the estimation of its budgetary cost and the evaluation of its effectiveness. It is preferable to estimate the budgetary costs of all relief measures to inform decision-making and ensure the effective use of TEs using data and evidence (Figure 72).

Figure 72: Steps to Prepare a Tax Expenditure Report (adapted from FERDI) and Intended Policy Goals



Source: IDinsight [https://www.idinsight.org][34]

[34] IDinsight aims to collaborate with the Technical Services Department (TSD) in the short term to develop a semi-automated TE data reporting tool to simplify data collection and analysis for the preparation of the TEs report. In the longer term, IDinsight proposes to collaborate with the TSD to design and implement a comprehensive data system with interlinked databases across relevant MDAs through a learning partnership; an extended engagement characterised by deep relationships and tailored technical support to address the identified needs in an iterative, flexible and sustainable manner.

Harmonization of VAT under Directive C/Dir.5/07/23 on the harmonization of the legislations of ECOWAS member states on VAT

Harmonization of VAT under this directive took into consideration Protocol No. A/P2/7/96 of July 27, 1996 instituting Value Added Tax (VAT) in the Member States, and Directive C/DIR.2/12/17 amending Directive C/DIR.1/05/09 on the harmonization of the laws of the ECOWAS Member States relating to Value Added Tax (VAT).

The main changes in the 2023 VAT Directive consolidated the two ECOWAS VAT directives of 2009 and 2017 into one single text. The initiative makes the VAT Directive simpler, clearer and more comprehensive. A new exemption paradigm has been introduced: as the application of the exemption mechanism is now optional, Member States can now tax the list of exempted goods and services set out in the Community Directive; Taxation of new products and services: such as e-commerce, second-hand products, have now been accommodated.. Tax discrimination like the taxation of intra-Community goods transportation will be based on the destination principle. Thresholds in the Community Directive have been abolished:

while reaffirming their rightful place, the thresholds will be determined by the Member States in the light of their economic structure and their capacity to manage VAT; Ceiling and floor rates to be dropped. However, a minimum tax rate of 10% applied to the taxable base has been adopted; Introduction of the option of a reduced rate of 5% on a national list of 10 essential products; Shift in the paradigm of VAT territoriality with regard to immaterial service

6. Operations exempt from VAT

A transaction is said to be "VAT-exempt" when, although within the scope of application, it is not subject to VAT. Exemption means that the taxable person does not collect VAT on exempt transactions. However, the taxable person remains liable for VAT on purchases of goods and services. In other words, the exemption does not release the taxable person from the obligation to pay the VAT invoiced by his suppliers. The operations that are exempt from VAT are listed exhaustively in the VAT Directive. The recently adopted VAT Directive brings a new paradigm to Article 7 of the draft, leaving States free to tax operations that were previously exempt. The words "are exempt" are replaced by "may be exempt". The Directive also contains provisions on territoriality rules applicable to services, VAT tax base and what events constitute a VAT chargeable event.

7. The Relevance of Avoidance of Double Taxation Agreements to Trade

Trade treaties strongly impact tax revenues of member- states by providing for tax incentives and exemptions in an effort to liberalise trade and create free trade areas amongst the member-states. They often reduce the applicable tax rates in a member state and align them with a uniform rate applicable within the custom territory. So, Nigeria's tax expenditures are not only as a result of domestic legislations that provide for tax incentives, they also have to do with various conventions to which Nigeria is a signatory. Sovereignty is intertwined with taxation and it is a cardinal principle of international customary law that sovereigns are equal with taxation being a social contract between the citizenry and the custodians of its power equation. Import duties can be switched for trade purposes, taxes are usually foregone through separate bilateral and, recently, the multilateral treaty on Base Erosion and Profit Shifting on Digital Economy, signed by 136 countries in 2022. Need to align Nigeria's trade agreements with our fiscal/economic interest. Over the years, the only means that a country can legitimately forego collection of due tax within its jurisdiction arises when it becomes a party to a bilateral treaty known as Avoidance of Double Taxation Agreement.

Nigeria, in 2013, Nigeria Model ADTA in which a traditional clause, Most Favoured Nation clause, was removed. ADTAs have positive effect on trade among parties to it. ADTA can help in attraction of Foreign Direct Investment (FDI), prevention of tax evasion, expansion of capital market and employment generation. Several ADTA negotiations have lasted for more than a decade and negotiations started over a decade ago without conclusion. Nigeria has 15 ADTAs in force, but none of them is with any country from the ECOWAS sub-region, and only one is with an African country (South Africa).

The obvious outcome is that while ECOWAS trade rules will bind Nigeria on customs duties, it will not be binding in the absence of ADTA. Out of the thirty-one (31) Articles contained in Nigeria's Model ADTA, thirteen (13) have issues relates to Base Erosion and Profit Shifting (BEPS), that are hostile to any trade agreement. The existing fifteen ADTAs do not have provisions regarding the changes introduced into the Nigerian Model ADTA, hence the need to renegotiate the ADTAs in order to incorporate these important changes. The domestication processes of ADTAs are delayed in Nigeria by administrative issues involving relevant MDAs and legislative processes of the National Assembly.

B. Regional Harmonization of Customs Duties

1. Nigeria's Customs Services (NCS) within the World Customs Organization (WCO) Arrangements

The WCO is an independent intergovernmental global organization with a mission to enhance the effectiveness and efficiency of Customs administrations. Nigeria Customs Service (NCS) is among the 185 Customs administrations that are members of the international Customs community in the WCO. Membership of the WCO provides a platform to benefit from technical expertise on Customs matters related to national development and international trade. In this regard, the NCS has adopted the WCO programs and tools as instruments to meet her statutory obligations that include revenue generation, trade facilitation, security, etc. For example, the WCO's Kyoto Convention established in 1974 provides a framework for Customs reform toward simplification and harmonization of Customs Procedures. Based on speed of commerce and advanced information technology, the convention was revised and became the roadmap for customs reform globally and has guided customs reforms in Nigeria. In particular, the revised Kyoto Convention advocates transparency, simplification, standardization, and harmonization of customs procedures (The Revised Kyoto Convention, February 3, 2006). These are core principles that guide the NCS modernization focusing on online publication of customs rules and regulations, the streamlining of customs paperwork; the use of electronic platforms for customs filing and clearance; the adoption of risk management tools for customs inspections that separate high-risk (e.g. potentially dangerous or illegal) cargo from low-risk cargo; and coordination between the border management agencies.

It is significant that the NCS developed a very robust and professional relationship with the WCO Secretariat based on the willingness and initiative by the leadership of the NCS for self-reforms. By 2010, the NCS secured the position of the WCO Vice Chair for the West and Central Africa Region, with the Comptroller General of NCS occupying the seat on behalf of Nigeria. This post made Nigeria an automatic member of the WCO Council, the organization's policy making body. It is instructive that the Comptroller General of Customs then set out his standpoint that Customs agencies in Africa should be proactive and reform themselves, rather than having reforms pushed on them. As he put, "We should embrace reforms in Customs and not reforms for Customs. (Nigeria Customs Service and Global South-2012)" The question is whether this line of thought has been sustained by the NCS and yielded the desired result.

While the NCS has interacted closely with the WCO, the resultant effect of the close interaction may not have translated into a modernized agency that has achieved the demand by the business community in Nigeria. The business community has looked up to a 21st century customs administration that facilitates compliant trade. Interaction with the private sector reflects the opposite. There is therefore a need for self-reassessment by the leadership of the NCS for a more effective modernization process or the government of the day need to pay more attention to sustaining the customs reform through an effective monitoring and evaluation mechanism (unit) that reports directly to the Comptroller General of Customs and the Minister of Finance.

2. Basis for the Modernization of NCS in line with Global Best Practices

While the WCO promotes modernization of its members globally, the World Trade Organization (WTO) advocates seamless international trade transactions through the Trade Facilitation Agreement (TFA). Section 1 of the TFA enumerates 12 trade facilitation measures for Member States to implement through their border agencies, including the Customs (**WTO Trade Facilitation Agreement**). The technical role of the Customs to facilitate border crossing using the WCO tools is amplified in the TFA, especially under Border Agency Cooperation Article 8. The Customs is expected to play a lead role in the coordination of other agencies to reduce delay and cost of cargo clearance. To perform this role efficiently and effectively, customs modernization is imperative. Furthermore, the international business community constantly demands modernization of customs administration to support the dynamic international trade rules and the speed in cross border commercial transactions. Therefore, the basis for the modernization of the NCS is not far-fetched from the global trading activities. More importantly, the regional and international agreements Nigeria signed required implementation by a modernized customs administration that will simplify and harmonize border procedures. For example, the ECOWAS Protocol on free movement of people and goods necessitated the establishment of the ECOWAS Trade Liberalization Scheme (ETLS) to promote regional integration. And the WTO TFA requires simplification, standardization, and harmonization of procedures to facilitate the clearance of compliant trade at the border.

Nigeria has signed the African Continental Free Trade Agreement (AfCFTA) to boost intra-continental trade and economic enhancement of participating countries. Implementation of these agreements undoubtedly requires the adoption of tools such as “trusted trader” programs and risk assessment tools to speed customs clearance at the borders, including harmonizing customs processing among regional trading partners. While the Nigeria Customs Service traditionally played a narrow role limited to the collection of duties and taxies on imported goods and suppression of smuggling, her functions have expended with emphasis on trade facilitation and related ease of doing business to promote foreign direct investment. The NCS is therefore faced with the challenge of modernization of its procedures to strike a balance between facilitating legitimate trade and border protection. Furthermore, globalization of supply chains and enhanced just-in-time (JIT) manufacturing, including expansion of e-commerce have necessitated customs administrations, including the NCS to modernize. Article 7.8 of the TFA provides for expedited shipment in support of JIT, which means that intermediate parts shipped through courier for clearance at the airports must be delivered aat the next point in the global value chain within a limited deadline.

Though the NCS has undergone modernization processes in line with the global best practices, especially related to trade facilitation measures under TFA Article 7 Release and Clearance of Goods, including pre-arrival processing; electronic payment; risk management; post-clearance audit; fast Operators, expedited Operators; expedited shipment, facilitated clearance is still limited. The remark of a former Comptroller General of Customs on "self-reform by customs" seems not applicable. Response by the private sector in a recent survey related to customs operations reflects unimpressed reality in cargo clearance. It is therefore, recommended that the NCS conducts a Time Release Study (TRS) under TFA Article 7.6 "Establishment and Publication of Average Release Times" to guide the NCS on its operational efficiency. The TRS is recommended as a tool for key performance indicator (KPI) to measure the efficiency and effectiveness of the NCS. The basis of modernization is to enhance capacity of the NCS to perform her core mandates related to Revenue Generation, Suppression of Smuggling, and Trade Facilitation. Effective application of the modernization tools will enhance compliance by traders to regulatory requirements resulting to enhanced revenue, reduced smuggling, and improved investment in the domestic economy to raise employment level.

3. Regional Trade Agreements and Customs Administration in Nigeria

ECOWAS Trade Liberalization Scheme

The ECOWAS Trade Liberalization Scheme (ETLS) is a trade instrument designed to promote intra-ECOWAS trade (ECOWAS Vanguard-NANTS/182). It is the primary tool for promoting West African regional integration as a Free Trade Area and a significant step towards establishing a common market in line with Article 3 of the ECOWAS Treaty, which provides for "the liberalization of trade by the abolition, among Member States, of customs duties levied on imports and exports, and the abolition among Member States, of non-tariff barriers…." Categories of goods covered under the ETLS are classified under three categories: Unprocessed Goods (livestock, fish, plant or animal products that have not undergone any industrial transformation; Traditional Handicraft Products (products made by hand with or without the use of tools and machineries, e.g., wood products, weaving products, handcrafts; Industrial Products of Community Origin (processed and semi processed good). While the ETLS remains the key instrument for the realization of Free Trade Area (FTA) in ECOWAS, the goal of boosting the regional economy by reducing the massive importation of goods into the region, generating employment among the ECOWAS Member States, and increasing intra-regional trade remained an illusion. Poor implementation of the scheme has kept intra-regional trade low, revolving around 10-12 percent (ECOWAS Vanguard – NANTS/182)

The challenges of a competitive African Continental Free Trade Area (AfCFTA) face ECOWAS Member States with low productivity. Non-compliance to trade rules through false declaration by the private sector operators and non-tariff barriers by Customs and other border agencies, including limited political will by the political authorities in promoting regional protocols are ascribed as reasons responsible for poor achievement of the goals of the ETLS. An effective monitoring and evaluation mechanism is required to assess the implementation of the ETLS. Based on concerns for low results from the ETLS, the ECOWAS Commission created a Task Force on the ECOWAS Trade Liberalization Scheme "to remove trade impediments and ensure the effective implementation of the ETLS and the ECOWAS Protocol on Free Movement of Persons and Goods, Right of Residence and Establishment". Effective implementation of the ETLS is a sin-qua-non to create an enabling environment for a competitive regional market in the continental trade and global trade.

ECOWAS Customs Union

ECOWAS current attempt to form a customs union calls for not only effective elimination of trade tariff between member countries, but also for a Common External Tariff (CET) applicable to third party countries. Although import tariffs in Nigeria are to a certain degree in line with the ECOWAS CET, Nigeria's Ministry of Finance regularly insert list of import ban to reinforce the countries agriculture and industry. This practice is a sign of unstable trade policy in the region, particularly between Nigeria and her neighbors. While Nigeria justifies its import ban through various arguments, including protection of domestic industry, rejection of dumping (especially poor-quality goods), security issues, sanitary and consumer health concerns, tax revenue, etc., this practice by Nigeria distorts regional integration and also promotes ambiguity in customs operations. Negative impact of this is that it raises anxiety among traders and encourages smuggling, which further places the NCS under pressure. This restrictive trade policy fuels informal trade and affects accurate data collection by the NCS at the border.

AfCFTA and Nigeria's Customs Administration

The African Continental Free Trade Agreement (AfCFTA) aims to promote intra-African trade to boost the continental economy. Nigeria signed the Agreement in July 2019 and ratified it in December 2020. AfCFTA will require member countries to remove tariffs from 90% of goods when fully implemented. This is based on the principle of allowing free access to commodities, goods, and services across the African continent. The effect of removal of tariffs is that the revenue accruable from this source will decline drastically, especially from countries outside the ECOWAS bloc. On the other hand, the agreement will create market access for Nigeria's export with the repatriation of revenue from this source helping to boost Nigeria's economy. Nigeria Customs administration will be required to enhance her capacity in the application of Rules of Origin to protect against the possibility of routing of goods produced by non-parties through countries that are party to AfCFTA. The capacity building program is highly recommended to avoid delays of compliant cargo at the border due to limited knowledge of relevant officials on Rules of Origin, and to protect Nigeria from dumping from third party states.

4. Appeals Mechanisms in Customs and other border agencies

Nigeria as a member of the WTO is under an obligation to implement the provisions of the WTO Trade Facilitation Agreement (TFA). Article 4 of the TFA provides for "Procedures for Appeals or Review" as a trade facilitation measure to ensure transparency and fairness in a dispute that arises between the trader and the customs or any other government agency (OGA) operating at the border. The delay in resolving commercial disputes at the border is considered necessary for a review. While there is a provision for appeals system in the Customs legislation, it is considered inadequate to quickly resolve the related commercial disputes. Such delays in the appeals process results to additional cost to a trader that often impact negatively on the business investment. This has led to demands by relevant stakeholders for an independent dispute resolution framework between the customs and the business community. This framework should be designed to meet the interest of parties in dispute. The most important step is to provide a legal framework that allows for a dispute resolution mechanism that can urgently address cross-border disputes.

SECTION VII: REVIEW OF TAX AND CUSTOMS FROM THE EMERGING REGIONAL PERSPECTIVE

The rapid growth in international trade over the past few decades is largely the result of technological developments and trade liberalization efforts at the multilateral, regional, bilateral, and national levels. In managing the movement of goods across its borders, Nigeria applies controls that serve various policy objectives such as: (i) collecting duties and taxes, (ii) protecting the economy from illicit trade practices, and (iii) safeguarding society and the environment from dangerous goods. These controls, in Nigeria, are undertaken by various regulatory, fiscal, and border control agencies. Over the years, many of such controls are often outdated, with overly bureaucratic clearance processes that pose greater barriers to trade than tariffs in the country. These constraints are often exacerbated by the uneven use of technology and procedures by agencies where some have automated systems and apply modern techniques such as risk management whilst others are paper-based and apply transactional, "total control/inspection" approaches. Inefficient organizational processes and weak administrative capacity, combined with little or no interagency coordination and inadequate infrastructure and equipment, have increased compliance costs and add to delays and unpredictability when moving goods across borders in Nigeria.

Based on these, Nigeria has started to focus on facilitating legitimate trade through national, regional, continental and international reforms through trade negotiations. At the multilateral level, the country entered into the Trade Facilitation Agreement (TFA) of the World Trade Organization (WTO) 2017. The TFA builds on the provisions in the General Agreement on Tariffs and Trade (GATT) related to freedom of transit, fees, and formalities, and the administration of trade regulations (Articles V, VIII, and X of GATT 1994). In addition to the multilateral negotiations at the WTO, the country has is expected to include trade facilitation provisions in its regional (ECOWAS) as well as continental (AfCFTA) trade agreements; that is, at customs union and the free trade area (FTA) agreements respectively.

There is no doubt that effective implementation of the trade facilitation would have a positive impact on Nigeria; particularly when it is streamlined with appropriate customs formalities for imports, exports, as well as transit of goods. All these would have multiple benefits of increasing trade activity while reducing bureaucratic red tape and expensive delays for traders as well as lessening administrative costs at the border (Sakyi, Afesorgbor, and Kwako 2019). WTO (2015) revealed that least developed countries (LDCs) as well as developing countries like Nigeria stand to gain the most from improvements in trade facilitation with reductions in trade costs (that is, the cost of getting the goods from the exporter to the importer's market) by about 16.73 %. An additional critical strength of trade facilitation measures is that it would allow the government to focus valuable resources on areas of highest risk and reduce costly delays for known compliant traders.

At the center of most trade facilitation reform initiatives is the Nigeria's customs infrastructure and policies; as its procedures have been an integral part of WTO/TFA measures Up till now, customs regimes of operations in Nigeria involve a complex array of often opaque requirements for importers and export firms, including documentation requirements and customs valuation forms. Efficient systems in customs administration require cooperation between traders and official agencies and clear, consistent transfer of information on requirement, such as shelf-life and sanitary regulations that may differ from those in place in the exporting country of origin. Unfortunately, additional problems also include multiple submission of data to different agencies, and lack of harmonization of import and export data with respect to contents and format for documentation. This poses a serious threat in meeting trade commitments and development objectives with respect to trade and investment. Simplified and best practice harmonized trade procedures would enable Nigeria to better enforce customs regulations at both regional and international levels.

However, while reform of trade facilitation procedures is complicated by the fact that custom revenue can constitute a major portion of national revenue in a country; undoubtedly, a best practice of custom reform through automation, harmonization of information requirements and risk-assessment methods would reduce levels of evasion, under declaration, and fraud. In this context, the role of World Customs Organization (WCO) and Kyoto Convention are important at the starting point. The Kyoto convention entered into force in 1974 with the objective to simplify and harmonize custom procedures. The WCO (2013) has revised and updated the objectives of Kyoto Convention since then to ensure that it meets the current demands of international trade. The main elements of the revised Kyoto convention for Customs reform that will promote trade facilitation include (a) the maximum use of automated systems, (b) risk management techniques, (c) the use of electronic funds transfer, and (d) coordination with other agencies, (e) making information on customs requirements, laws, rules and regulations easily available to everyone. However, even though WCO is the appropriate institution to oversee and enforce the Kyoto Convention, it lacks a "dispute settlement" mechanism required for enforcing procedures; thus, calling for WTO intervention that has a dispute settlement mechanism, but embracing the use of the Kyoto Convention principles to remain.

A. Nigeria's Customs Harmonization in Regional Perspective

The need to address the cumbersome customs procedures characterized by several factors such as excessive documentary requirements, outdated customs procedures, lack of automation and insignificant use of IT, lack of transparency, predictability and consistency, and the general lack of cooperation with other government agencies amongst others. This has led to the coming into force of the (WTO, 2014) Trade Facilitation Agreement (TFA) which is the first multilateral trade agreement to be concluded since the WTO was established since 1995. It is expected to reduce total trade costs by more than 14 per cent for low-income countries and more than 13% for upper middle-income countries by streamlining the flow of trade across borders. Nigeria along with many developing countries ratified this agreement owing to the fact that for the first time in WTO history, the commitments of developing and least-developed countries are linked to their capacity to implement an agreement. While there is a lot of hope for Nigeria to benefit from WTO/TFA; however, such gains will not be achieved without a strict implementation of the approximately 40 measures set out in Articles of the Agreement.

1. Nigeria in the WTO Trade Facilitation and its Regional Application

Nigeria took a major step in its commitment to improve ease of doing business through trade facilitation on January 20th, 2017, when she submitted the instrument of acceptance of WTO Protocol on TFA to the Director General of WTO. The TFA sets forth a series of measures for expeditiously moving goods across borders inspired by the best practices from around the world Nigeria's ratification of the TFA is a reflection of her commitment to the WTO and a rules-based economy. TFA aligns with Nigeria's objective of deepening the ease of doing business in the country through enabling policy environment with respect to trade at regional (ECOWAS) and AfCFTA levels using the same TFA standards. The immediate impact of the use of TFA at regional, continental and WTO levels is that ease of doing business will improve by a wide margin resulting in improved revenue, reduction in customs processes as well as income for producers and traders. It is expected to usher in an era of ease of doing business by shortening requirements for documentations and number of days required to process them.

While the ratification of Nigeria is justified the need for (a) more investment in border management reform, (b)the development of a new approach to border management, and (c)the institutional and political-economic factors for border management reform; the by answering to the following questions demand answers:

- How can all the relevant government agencies at the border develop and implement cost effective and efficient trade friendly clearance processes and mechanisms in the country, while maintaining their regulatory controls?
- How can compliance improvement regimes that appropriately mix incentives with disincentives, and that progressively encourage higher levels of voluntary compliance, be established across border agencies in the country?
- What hard and soft infrastructure and information technology can be designed and deployed to achieve the most cost-effective border clearance processes? and
- How can policymakers build and maintain the political will and institutional commitment needed to undertake meaningful reform; so as to overcome strong vested interests; and to manage change?

(a) **Categorization of TFA for Implementation**

While developed Members should implement all obligations upon entry into force of the TFA, developing and LDC Members have the freedom to decide when to implement each provision by submitting notification of three categories. TFA contains Special and Differential Treatment (SDT) provisions that allow developing, like Nigeria and LDC Members to determine when they will implement individual provisions of the Agreement. The SDT equally allow them to identify provisions that they will only be able to implement upon the receipt of technical assistance and support for capacity building. However, to benefit from SDT, a member must categorize (A B C) each provision of the Agreement, as defined below, and notify other WTO Members of these categorizations in accordance with specific timelines outlined in the Agreement. The categorizations are as follows:

- Category A: contains provisions that a developing Member or an LDC Member designates for implementation upon entry into force of this Agreement, or in the case of an LDC Member within 1 year after entry into force.
- Category B: contains provisions that a developing Member or an LDC Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement.
- Category C: contains provisions that a developing Member or an LDC Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement and requiring the acquisition of implementation capacity through the provision of assistance and support for capacity building.

While trade facilitation sometimes covers any policy related to reducing trade costs, specifically, the WTO trade facilitation negotiations only aim to clarify and improve relevant aspects of:

- Article V (Freedom of Transit).
- Article VIII (Fees and Formalities connected with importation and exportation).
- Article X (Publication and Administration of Trade Regulations).
- Section II (Articles 13-24) of the TFA is entitled Special and Differentiated Treatment Provisions for Developing Country Members and Least Developed Members.
- It elaborates on how developing and LDC Members implement obligations set in Section I (see Table 70 Article 1-12)

(b) Cost Implications of Commitments on Nigeria

There are going to be costs to be incurred by Nigeria in implementing some of the provisions of the TFA in the various categories the country is committed to. The costs of introducing and implementing trade facilitation measures demands that the government must decide whether and to what extent the part of her financial resources that should be allocated to trade facilitation reform. Particularly when there is the fear that the costs associated with trade facilitation reforms might outweigh the anticipated benefits resulting from the adoption and implementation of trade facilitation measures at regional, continental and multilateral levels. Such implementation costs can take various forms, such as the following:

Regulatory Costs-The TFA is likely to invoke new regulations and legislations or amendments in existing laws in Nigeria to make them consistent with national regulatory and legislative process. This in turn will call for a considerable resource that may be required for legislative and regulatory work at National Assembly. Besides major legislative changes, trade facilitation measures will entail operationalization of legislation on electronic signatures and other procedural/administrative matters which will most likely incur additional costs. Trade facilitation measures are expected to involve the development of new units such as post-clearance teams, risk management teams and central enquiry points, which will need additional financial and human resources.

Table 70: The Main Provisions of the WTO/TFA

Articles	Provisions	Concerned Authorities
Artcle1	Publication and availability of information	Executive Authority All border agencies Trade Authority Revenue Authority Agency responsible for information management
Article 2	Opportunity to comment and information before entry into force	All border agencies Trade Authority Executive Authority Legislative Authority
Article 3	Advance Rulings	Customs
Article 4	Procedures for appeal or review	Customs Other border agencies
Article 5	Other measures to enhance impartiality, on discrimination and transparency	All border agencies
Article 6	General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation	Customs Other Border Agencies
Article 7	Release and Clearance of Goods	Customs Other Border Agencies
Article 8	Border Agency Cooperation	All border agencies
Article 9	Movement of goods intended for import under customs control	Customs
Article 10	Formalities connected with importation, exportation and transit	All border agencies
Article 11	Freedom of transit	All border agencies
Article 12	Customs Cooperation	Customs

Source: WTO

Institutional Costs- Another vital challenge in regard to the implementation of trade facilitation measures in the country would be the co-ordination and co-operation among various relevant authorities. While such coordination between various agencies is expected to result in significant reductions in time and costs for traders by aligning customs administration/procedures and ensuring compliance with documentary requirements (licenses, certificates, etc.), it may require creating formal and informal procedures, practices and mechanisms that will entail costs. In addition, the would be the need for on-the- job training across those institutions created in order to expedite smooth flow of goods and services not only at the borders but also within the country.

Equipment and infrastructure costs- Equipment and infrastructure costs may be a corollary cost that would be necessary for trade facilitation to be effective in Nigeria. This cost is likely to be incurred for incorporating existing or new ICT systems and online support for documentation, data gathering, traceability, and risk and stock management.

Sensitizing and Public Awareness- Implementation of trade facilitation measures also require sensitization and awareness-raising among relevant stakeholders such as policy makers, regulators, private/public entities, industry associations, CSOs and consumers in the country.

No doubt, the costs incurred in the implementation of the TFA may be high for Nigeria due to the difficulties the country may encounter in undertaking some of the time-bound commitments owing to their resource limitations, capacity constraints and diverse priorities. However, these costs are inevitable, as the country has committed itself to them in both the regional and international agreements on trade

2. Inter-agency Collaboration on Trade Facilitation

Logistics issues in trade facilitation involves facilitating trade: (a) at the border, (b)behind the border, and (c) beyond the border. This is because, modern era of international trade is one of increasingly complex interactions between people, firms, and organizations. With activities of transnational corporations (TNCs) among their affiliates, supply chains cross countries and regions has made trade to become a 24/7 business and good performance in trade requires connectivity along not only on roads, rail and sea, but in telecommunications, financial markets and information-processing. Having inefficient or inadequate systems of transportation, logistics and trade-related infrastructure can severely impede a country's ability to compete effectively in international trade on a global scale. The trade environment is complex with a wide range of actors and procedures. It is easy to count 60 or more distinct trade procedures targeting goods, the vehicles that move them (for example, ships, planes and trucks) or their operators (for example, drivers, seafarers, flight crew). Control objects include: revenue collection; safety and security; environment and health; consumer protection; and trade policy (Table 71). In the majority of countries, a significant share of these controls will be performed by the customs services or under customs supervision, but other border regulatory agencies equally have tier specific duties to play like in Nigeria.

Table 71: Examples of International Trade Related Regulatory Activities

Regulatory Category	Examples of related activity
Revenue Collection	Collection of Customs duties, excise duties and other indirect taxes; payment of duties and fees; management of bonds and other financial securities
Safety and Security	Security and anti smuggling controls; dangerous goods; vehicle checks; immigration and visa formalities; export licences
Environment and Health	Phytosanitary, veterinary and hygiene controls; health and safety measures; CITES controls; ships' waste
Consumer Protection	Product testing; labelling; conformity checks with marketing standards (e.g. fruit and vegetables)
Trade Policy	Administration of quota restrictions; refunds; suspensive regimes

Source: Compendium on Understanding Single Window Environment

The keen interest in Nigeria in harmonizing, streamlining, and simplifying border management systems and procedures across different agencies of the government would include putting in place such initiatives as:

- Coordinated border management. This can include information sharing, co-located facilities, close interagency cooperation, the delegation of administrative authority, and the cross-designation of officials.
- One stop border post. Neighboring countries coordinate import, export, and transit processes, so that traders need not duplicate regulatory formalities on both sides of a border (Seme border).
- Single window system. Traders can submit all import, export and transit information required by regulatory agencies at one time—through a single electronic gateway—

rather than submit essentially the same information repeatedly to various government entities.

3. Single Window Port Management Administration

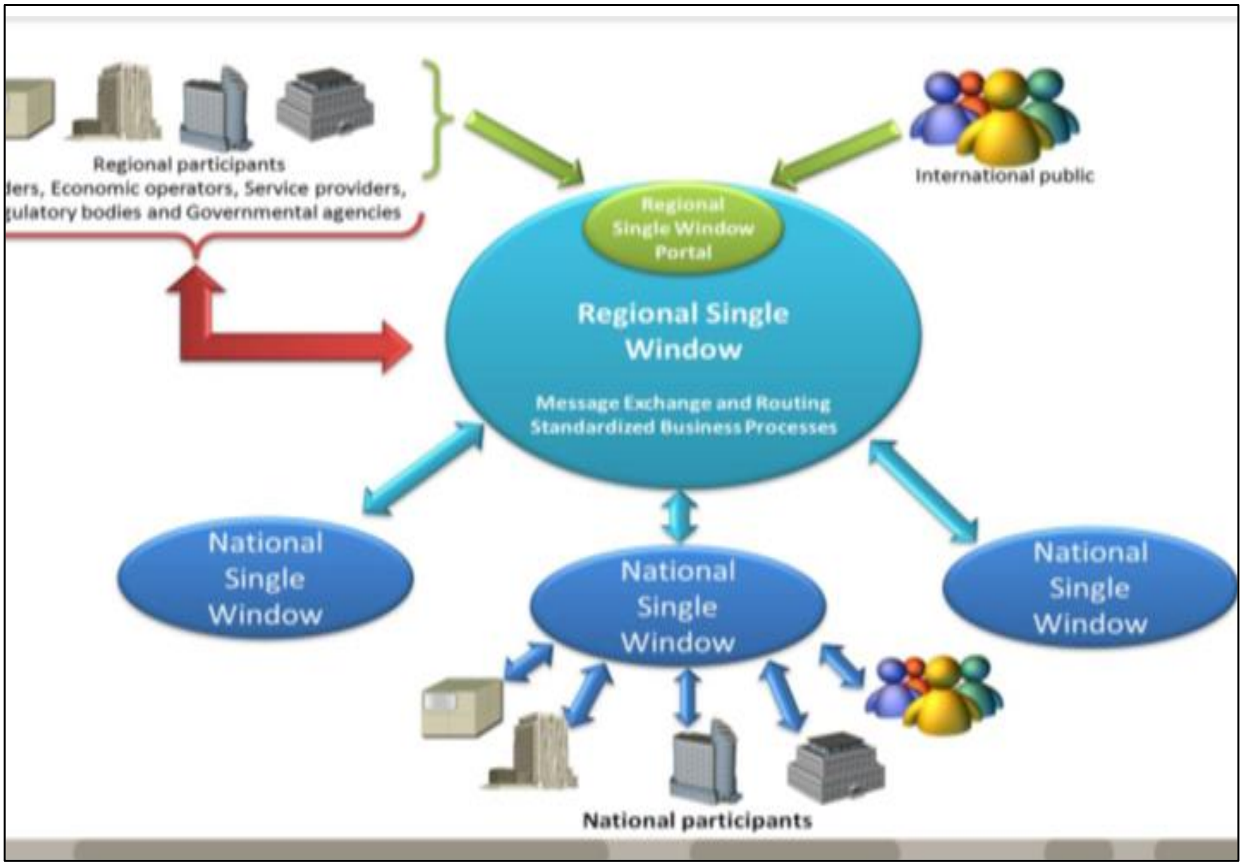
One of the key objectives of an efficient and effective port administration in Nigeria is "to establish a framework whereby its competitiveness can be increased". There are several issues that give rise to this need: (a) the current administrative procedures of Nigerian port administration are still complex and time-consuming; (b) many, if not all, of these procedures are still being carried out on paper, and where some are carried out electronically, the systems differ from port to port and from one regulatory agency to another across the country; and (c) the lack of interoperability of operational procedures and data management among the agencies results in increased costs without economies of scale. To improve ports operations of Nigeria towards global competitiveness efforts must be put in place to: (i) operate them in line with international best practices; (ii) achieve faster cargo clearance time with less hassle; (iii) integrate all stakeholders (in cargo clearance as well as other activities at the ports) under one administrative system that is customer friendly; (iv) maximize revenue through speedy clearance and turn over; (v) achieve accurate calculation of duties and taxes electronically; and (vi) provide accurate/timely foreign trade statistics for government and business community.

Having a national Single window ports operation system will bring a lot of value, particularly when dealing with international trade with a multi-party participation. At ECOWAS of AfCFTA levels, connecting the National Single Windows to a Regional or Continental ones (Figure 73) would facilitate relationships from: (a) Government to Government, (b) Government to Business, (c) Business to Business and (d) Business to Government across the region (ESCAP 2014).

a) Concept of Single Window

A Single Window is set up that allows the exchange of information between traders and government agencies, and amongst government agencies, for trade relevant procedures such as obtaining permits and licenses, certificates and necessary approvals, customs clearance, and port exit. It offers a single point of entry and single submission of trade relevant data for traders, and a more efficient and faster processing in a paperless environment. Attributes of a Single Window occur in a port environment when there is data exchange between government authorities and economic operators (such as traders, and other relevant stakeholders) mandated by the government. If implemented effectively, a Single Window project can achieve the following benefits:

Figure 73: Regional Single Window



Source: ESCAP 2014-Single Window for Trade Facilitation

- For the government as a whole: increase in government revenue, enhanced compliance with rules, improved efficiency in resource allocation, better trade statistics,
- For economic operators, such as traders: faster clearance times, a more transparent and predictable process and less bureaucracy,
- For an administration such as Customs: improved staff productivity through the upgraded infrastructure, increase in customs revenue, a more structured and controlled working environment, and enhanced professionalism,
- For the national economy as a whole: improved transparency and governance and reduced corruption, due to fewer opportunities for physical interaction.

(b) WTO Single Window System

Single Window is a trade facilitation tool which when deployed inevitably results in significant improvement in the time and cost in carrying out cross–border trade. The GATT Article X .4 of the WTO TFA calls on Member States. "to endeavor to establish or maintain a single window, which enables traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner."

(c) Models for the Single Window

Essentially, there are three (3) models of Single Window; and a country could choose any of them or even a hybrid of any of them (Figure 74)

Single Authority-It is a situation in which a single regulatory authority (say Nigeria Customs Service) receives port activities information, either on paper or electronically, from traders and other participants at the ports and disseminates this information to all relevant governmental authorities. The single authority also co-ordinates as well as controls the information to prevent undue hindrance. Swedish single window is under the customs on behalf of other agencies.

Single Automated System- It is for the collection and dissemination of information (either public or private) that integrates the electronic collection, use, and dissemination (and storage) of data related to trade that crosses the border. The system may send data to these agencies for processes also. USA has a program that allows traders to submit standard data only once, and the system process and distributes the data to relevant agencies of the government.

An Automated Information Transaction System- In this system, a trader can submit electronic trade declarations to the various authorities for processing and approval in a single application. Thereafter, approvals are transmitted electronically from governmental authorities to the trader's computer. In Singapore, fees, taxes and duties computed in a way that they are deducted from the traders' bank accounts

(a) Participants in Automated Information Transaction System

Among the three models above, Automated Information Transaction System, would be ideal for Nigeria with the following participants:

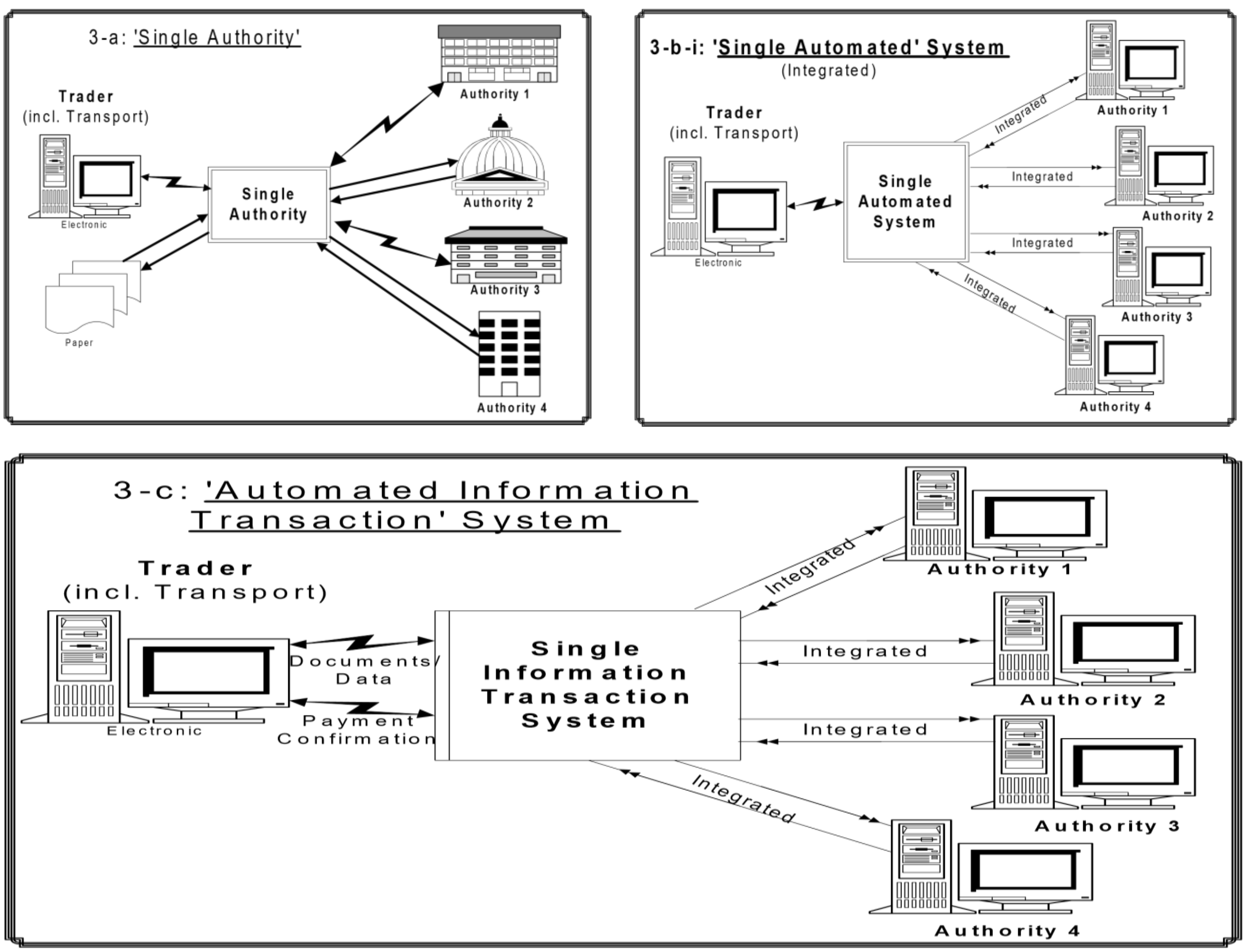
Private Sector Participants- (i) importers, exporters (consignors and consignees); (ii) trade professionals (freight forwarders, customs brokers and shipping agents); (iii) shipping companies, airlines, road, rail and inland waterways, duty free zones, dry ports and (iv) multimodal cargo depot, and dry ports; (v) ports and airports, container terminals, bulk terminals, port gate operations and local port road and rail transport.

Public Sector Participants- Customs and other government agencies, that have a trade compliance responsibility such as: (i) Ministry of Industry, Trade and Investment; (ii) Food and drug agencies; (iii) Ministry of Health; (iv) Ministry of Transport; (iv) Quarantine agencies; (v) Ministry of Finance/Treasury/Tax and Excise/the Central Bank; and (vi) Security agencies/defense organizations.

When effectively implemented the Automated Information Transaction Single Window System in Nigerian ports would be able to:

- Simplify administrative procedures for co-modality and inter-modality of activities, providing interoperability between this Single Windows platforms and regulatory compliance reporting systems at the ports.

Figure 74: Models for the Single Window



Source: ESCAP (2014)

- Improve the utilization of transport resources by supporting transport stakeholders to establish and manage competitive business networks like intermodal and multimodal transportation.
- Support improved efficiency of shipping services (cost/ton-km) and enhancing the attractiveness of shipping for efficient door-to-door supply chains (improved service reliability, environmental impact and ease of use).
- Develop a competitive technology supplier industry for the system.
- Can be linked to the ECOWAS and AfCFTA Regional Single Window System
- However, the stakeholders (public and private) in the country would have to provide needed infrastructure (hard and soft) in addition to the following:
- Online processing of trade documents over the internet.
- Provision of e-Government capabilities to other federal government agencies.
- Interoperability with other IT systems.
- Cooperative risk management on any trade document.
- Business Intelligence dashboards.
- Cross-agencies real-time interactions (global processing).
- Harmonized reference information between agencies.
- Digital signing and full certification chain.
- Audit, tracking.

The provision of the above will allow for the : (i) scanning services of relevant documents from all actors using the system are possible and easy transmission facilities of documents among them feasible Importers/Agents should be able to make declarations on-line from their offices using Wi-Fi facilities; (ii) shipping/Airlines should be able to submit manifests on-line to the Single Window; (iii) Importers/Agents are able to make e-payment at the designated Banks; (iv) the Banks in turn are able to make e-remittance to CBN; (v) e-reconciliation with CBN and the designated Banks are possible; (vi) electronic submission of all documents required for foreign trade via an Internet application or interfaces are made possible; (vii) data is secured and only accessible by authorized entities via an Internet application or similar interfaces; (viii) processing and transmission of authorities and port community members decisions are done through the single window information system only; (ix) securing the supply chain through the tracking and tracing of goods while ensuring data confidentiality; (x) possible combination of complementary services to the information system such as risk management system; and (xi) effective monitoring and evaluation system are in place.

(b) Benefits of Single Window

The benefits of single window is aimed at benefitting the key stakeholders comprising: Government and its various compliance agencies; Port, logistics and transport communities; Traders and their trade professionals (customs brokers, freight forwards and shipping agents). These benefits may be categorized as follows:

For the Policymaker- It will raise regional and national awareness of the potential of automated trade facilitation and the single window, and help facilitate collaboration in ECOWAS and AfCFTA through integration and exchange of regional trade information.

Regulatory compliance authorities - More efficient and productive use of resources; enhanced collections of fees, duties and penalties; more comprehensive, streamlined and automated business compliance to Government legislative and regulatory requirements, including the terms of international trade treaties; enhanced risk analysis and management and improved security; enhanced transparency in Government to Business relations; and reductions in corruption and illegal trade activities, enhanced transparency and accountability.

Traders- cost reductions through time taken to reduce and to eliminate delays, and more predictable, reliable and authoritative decisions; automation will facilitate faster goods clearance, exception handling and dispute resolution, leading to reduced inventory holding costs; predictable and reliable consignment clearance and availability of advanced goods release information; and reduction in face-to-face meetings, greater transparency and reduced opportunities for rent seeking and corruption.

For the logistics operators- faster movement of goods through formalities and trade junctions, leading to better and more productive utilization of resources; simplify and accelerate procedures for goods entry, exit or transit; improve the port logistics chain efficiency; reliable information on timing of goods movement, allowing accurate scheduling, allocation of resources and improved accuracy of information provided to clients; more productive and flexible use of human resources; the ability to accurately schedule goods collection and discharge times and locations; and better end-to-end audits of operation.

B. Trade-off Between Trade Facilitation and Revenue Collection by NCS in Nigeria

Nigeria, like in many countries, NCS provide a service, which is primarily related to tax collection, that may not be aligned with the interests of economic operators. Despite this the tax collection service provided by NCS plays a vital role to budgetary operations of Nigeria. Customs usually consider that a trade-off is inevitable between public revenues collection and trade facilitation measures. Perhaps because customs administrations are usually the most important revenue collection agencies, they may not willing to implement trade facilitation measures since they are not able to evaluate their impact and the risk of the decreasing of customs revenues. This fear of lost revenue could explain, to some extent. why implementation of TFA in the country has not been implemented in line with the timelines Nigeria agreed when ratifying the WTO TFA in 2017.

The NCS officials usually strive to control more strictly economic operators at the border through systematic inspections, scanning and checkpoints where applicable. Unfortunately, these tools may not usually reach their objectives on revenue collection as imports undervaluation remains very high as well as smuggling and transit diversion, all of which result in corruption. In the end, customs end up "punishing" the only private sector operators, who remain outside or less inside collusion practices. In addition, because of distrust between the customs officials, other regulatory MDAs and private operators, additional layers of controls are often put in place in Nigeria over the years to control the customs administration; such as pre-shipment inspection procedures, and quite often destination inspection procedures, carried out by international companies.

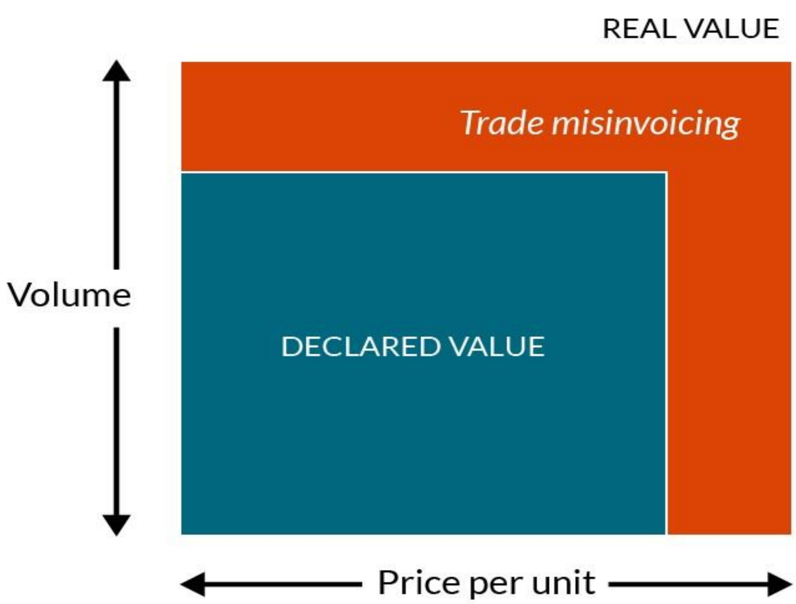
Unfortunately, records do not confirm the efficiency of such additional layers of controls in the country, instead significant undervaluation, trade mis-pricing (Figure 75) and transfer pricing have all continued to prevail. In fact, it seems that opening of Nigeria's borders to facilitate the flow of goods must come at the cost of weakening border protections against further problems. To a great extent, all these have contributed to increase uncertainties about trade in Nigeria in the international supply chain, particularly with respect to difficulties in inventory management and prompts increased safety stock in supply chains. This equally constitutes loss of competitiveness for the country.

1. Trade Mis-Invoicing

Trade mis-invoicing is a form of customs and/or tax fraud involving exporters and importers by deliberately mis-reporting the value, quantity, or nature of goods or services in a commercial transaction. Estimates of trade mis-invoicing are closely linked the term illicit financial flows (IFFs), as both were popularized by Global Financial Integrity (GFI). GFI famously estimates that trade mis-invoicing is the largest portion of IFFs, draining $800 billion from developing countries annually (GFI, 2015). Their work also inspired the UN Economic Commission for Africa (UNECA) and the African Union to set up a High-Level Panel (HLP) on IFFs from Africa which estimated that this practice, concentrated on a few commodities, is responsible for $50 billion of illicit flows from Africa (HLP, 2015).

The issues of mis-invoicing involve: (a) false values, (b) false goods, and (c) false weight declarations. When a shipment of goods crosses a border the importer or exporter declares what is in the container, and once the unit value and the amount declared match with what is actually in the container then there is no illicit flow. However, when an exporter or importer seeks to evade tariffs or taxes or hide a payment to a contracting party by declaring a value that does not reflect the real value of the goods (in either direction—higher or lower); then trade mis-pricing aspect of IFFs exist. Thus, when there is a difference between what is declared and the actual nature, quantity, or value of the goods then this may be customs fraud and diversion of funds; then IFFs results (Figure 75). From the 2 rectangles: (a) red is real value of products; while (b) is the blue declared value.

Figure 75. Trade Mis-invoicing



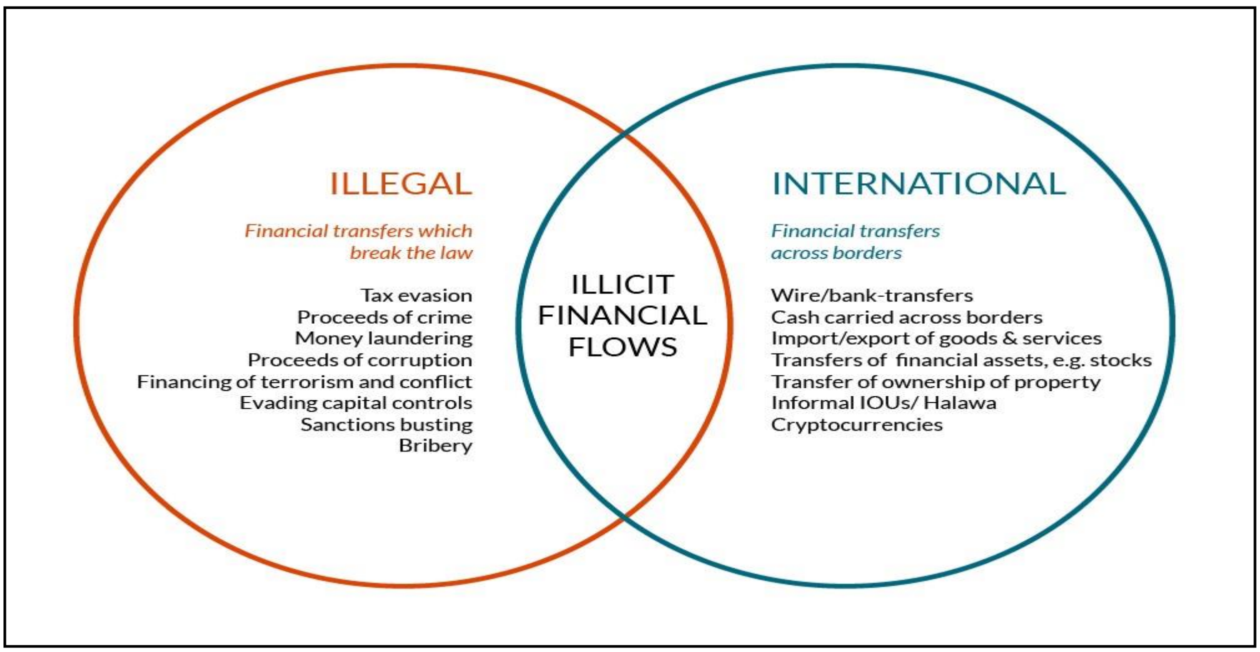
Source: Aremu (2021) ICPC/National Assembly on IFFs, Uyo

2. Transfer Pricing

Transfer pricing is an aspect of IFFs; that is, funds that are illegally earned, transferred or used, at its origin, or during movement such as: (a) corruption, which is the proceeds from theft and bribery by government officials; (b) proceeds from criminal activities, including drug trading, racketeering, counterfeiting, contraband, and terrorist financing; (c) proceeds from commercial transactions mainly through trade mis-pricing and activities of the TNCs. In Figure 76, the area of intersections between what are legally permitted and what are not if known as IFFs. By interpretation, from Figure 76, IFFs include the following: (i) capital that is legally earned but illegally transferred; (ii) capital that is illegally earned but legally transferred; and (c) capital that is illegally earned and illegally transferred. A component of IFFs in form of commercial transaction is transfer pricing. It is artificially price setting in intra-firm transactions, so as to avoid taxes and to get other benefits. Such intra-corporate transfer of pricing has been affecting the distribution of benefits of TNCs in Nigeria over the years.

For instance, from Figure 76, if corporate taxation of an affiliate A5 (Nigeria) is high or where there is a continuous depreciation of national currency (naira), the TNCs are likely to reduce the level of their declared profits through increasing of prices charged on imports (over-invoicing of imports) to Nigerian affiliates by other affiliates (i.e A1 to A4) or lowering their sales prices from A5 (under-invoicing of exports) to other affiliates (i.e A1- 6 except A5) in the TNC (Aremu, 2005).

Figure 76: Illicit Financial Flows



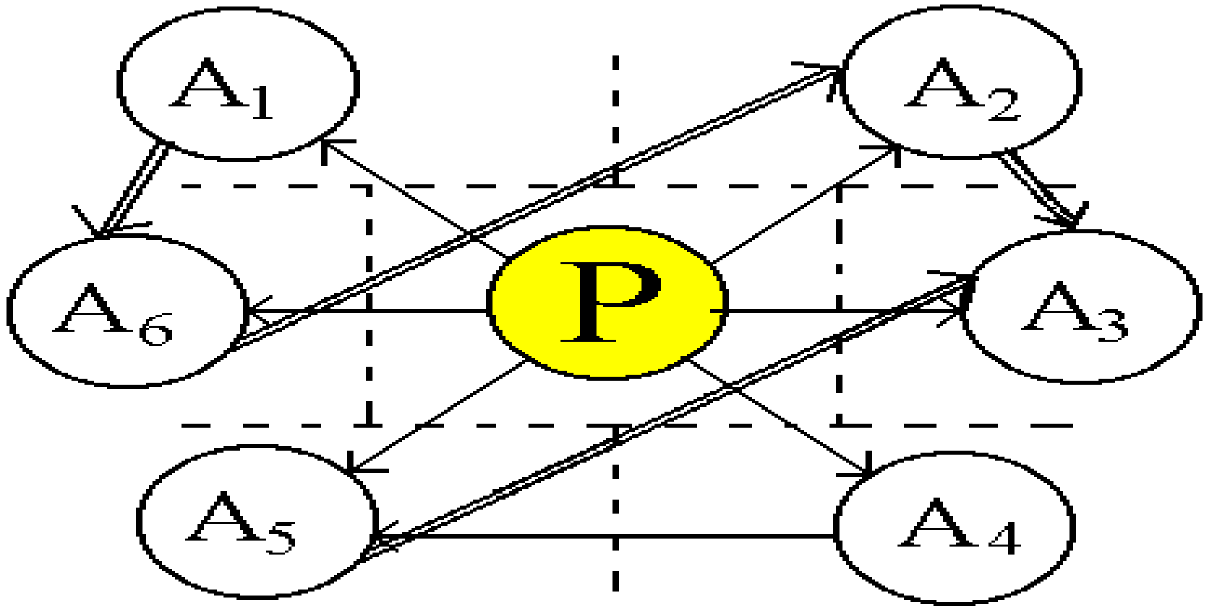
In addition, where there is a continuous depreciation of national currency, the TNCs are likely to reduce the level of their declared profits through increasing of prices charged (over-invoicing of imports) to such a host economy's affiliates by other affiliates or lowering their sales prices (under invoicing of exports) for other affiliates outside the host economy, as explained above. The lack of information about the extent of such price manipulations (i.e over-invoicing of imports or under-invoicing of exports) have the following implications, particularly on many African countries:

- Transfer pricing puts national tax jurisdictions under stress because it is an income shifting system that allows TNCs to maximize after-tax profits by channeling taxable income to lower-tax jurisdictions.
- It equally raises horizontal equity issues on the basis that it provides a substantial advantage to TNCs in comparison with non-TNCs; only the former can use this type of international tax planning strategy.

From the Figure 77, a TNC – system is seen as an internal arrangement with international implications in which the upstream and downstream transactions (i.e. the vertical integration) in the system are not determined by market forces nor their products valued at market prices. In a typical TNC – system where the economic ambition is merely upstream integration (i.e. vertical backward *integration), the parent firm is likely to constitute an important market for the products from its affiliates while in the case of a TNC – system that is pursuing a complex integration, the flow of goods and services can be seen to be multidirectional (i.e. from the parent firm to affiliates and from affiliates to the parent company or among the affiliates) like Figure 77. In addition to the economic motives that make TNCs to select host economies, other aspects that do influence the corporate strategy of TNCs are: the degree of technological sophistication and economies of scale desired; the length of time they wished to stay in host economies; the geographic distance as well as the level of transaction costs between the TNCs and their affiliates; the market positions of the TNCs; as well as the trade commercial policies of the host countries*.

Despite these problems and the activities of customs to curb them, economic growth will only be sustainable if trade expands. Taking into account the current trade-related constraints and the limitation of export growth by non-tariff barriers, there is an emerging consensus is that without trade facilitation, trade expansion will not materialize. Customs modernization reforms, would be necessary to address these problems in Nigeria.

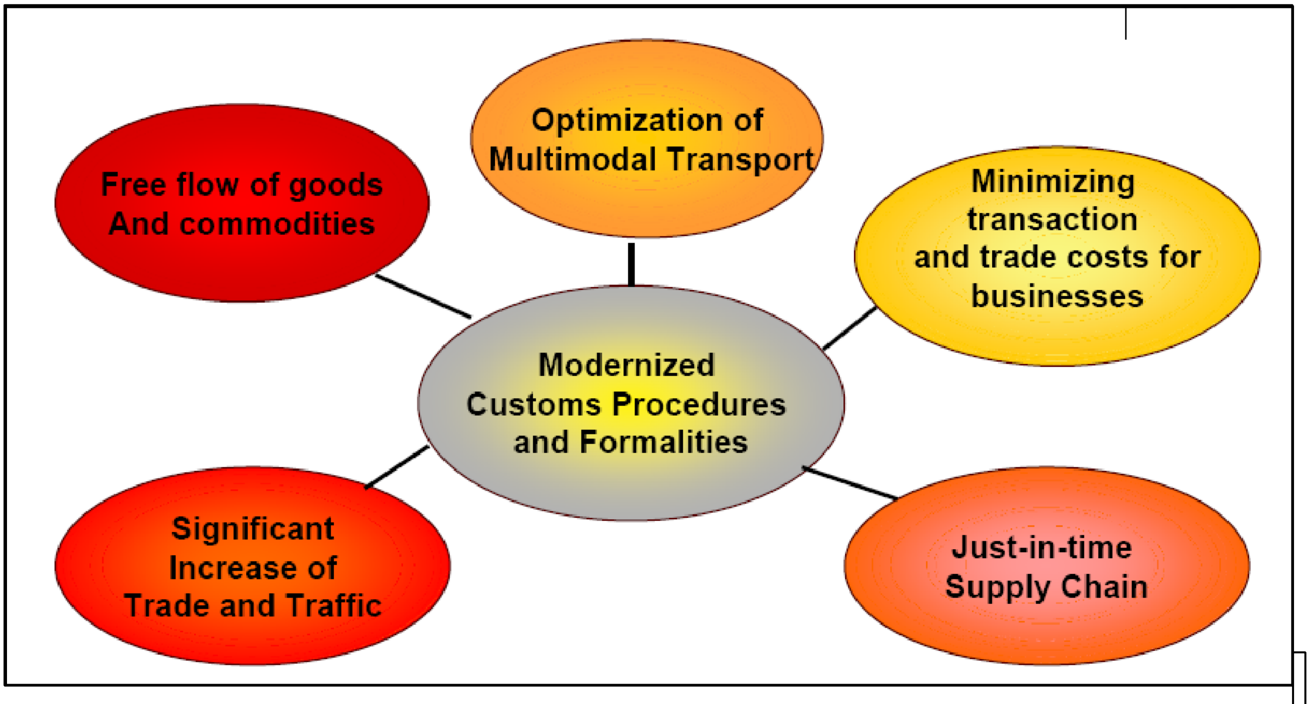
Figure 77:Transnational Strategy of TNCs



Such reforms include, among others the following: (i) replace inefficient, costly and outdated manual systems and procedures with modern approaches based on the harmonization and simplification of procedures; (ii) the adoption of risk management to reduce inefficient and costly physical inspections; (iii) implementation of modern ICT systems to increase the level of transparency of rules and regulations and minimizing opportunities for corruption, which all go in the direction of WTO/TFA that minimizes transaction costs. However, successful implementation of the reforms in Nigeria demands: (a) political will, at the highest level, (b) a strategic approach to reform, (c) a careful assessment of the institutional scene and balance of powers, with sensitive management of opposing and supportive forces, and (d) the selection and sequencing of practical remedial measures and the professional improvement of individual procedures, with a keen eye to the total procedural chain and precautionary securing of every improvement.

No doubt, efficient customs procedures in Nigeria could minimize transaction costs and lead to increased trade (Figure 78). In the same way, fewer rigid controls at borders does not necessarily mean less public revenues collected, and that facilitation-related investment (such as computerization of operations, risk management strategy implemented and links between several IT systems of trade management stakeholders) could also lead to a more efficient control in Nigerian economy.

Figure 78: Modernized and Streamlined Customs Procedures



Source: Le (2005).

Emerging questions are: (a) Are there any relationship between TFA and customs-collected tax revenue? (b)Do TFA provisions conflict with revenue collection and weaken the country's controls?

In research carried out by Cristiano Morini (2017), across some regions in the world, government border services, including those provided by customs, was seen to have led to increased time and a lack of consistency and predictability in countries that emphasize customs control for tax purposes. Such increase in time spent on supply chain management contributes to increased costs that do not add value and to greater losses in terms of competitiveness of a country. This competitiveness loss itself disrupts the integration of businesses and the country involved into global value chains (GVCs). Other findings of Morini are that:

- enhanced levels of interaction among various customs authorities and between customs and the private sector contributed to TFA implementation, which in turn benefits those involved in terms of information exchange, data sharing, and compliance with simpler procedures (thus avoiding double controls);

- the Single Window system, which requires the coordination of various national agencies, requires political will but produces benefits in terms of saving time, reducing costs, mapping processes, and simplifying procedures is one of least used TFA measures in many African countries;
- customs collected duties and taxes represent a large share of total revenue collection in African region; than in other regions;
- TFA practices which include: the publication of laws and regulations, online support for traders, alignment among agencies, and paperless policy are good examples in countries that depend on the tax revenue provided by customs to varying extents;
- TFA measures are also related to the modernization and reform of the customs environment;
- engaging in TFA does not weaken customs controls, as some countries not friendly to reform appear to believe; and
- high dependence on customs-collected tax revenue is not the primary explanation for the existence of excessive controls and high transaction costs as there are countries with a high degree of dependence on tax revenues provided by customs that also implement TFA polices.

C. Nigeria's Tax Harmonization in Regional Perspective

Since Nigeria is a member of both ECOWAS and African Economic Community (AEC) in which the first phase is AfCFTA, clearly, there is need for the country harmonize its tax matters with economic integrations to have the desired results. For instance, without tax harmonization the FTA under AfCFTA and the customs union under ECOWAS could just be replaced by a different set internal taxes which would continue to discriminate against imports from other African Member States. The logic is simple, if different taxes were levied on a different basis or at differ-ent rates across the region or the continental market, this would produce obstacles to the free movement of goods and services, capital and even human beings, and thus frustrate the ultimate goal of achieving the both ECOWAS and AfCFTA aspirations.

The basic rationale for tax harmonization lies in the general proposition that it would lead to a more efficient allocation of resources. Usually, the decision to consume either imports or domestic products would depend on relative before-tax prices of a particular product: likewise, the decision to invest at home or abroad would depend on before-tax rates of return as well. The relevance of this rationale diminishes, however, in the presence of direct or indirect regulatory barriers (such as tax) to regional or international trade, investment flows, or labor migration. In the extreme case of autarky (an economic system in which a country or region is self-sufficient and does not engage in international trade: that is, all goods and services are produced within the country and there is little or no reliance on imports or exports) intercountry tax rate differentials play no role in resource allocation. By contrast however, the impact of taxation makes economic agents to respond to such differentials.

It is observed that corporation tax rate in the European Union (EU) has been declining due to intense negotiation to harmonize tax policy; under deeper economic integration levels of the region EC (2016). With ECOWAS Trade liberalization Scheme (ETLS) and the Common External Tariff (CET), as well as the African Union (AU) with AfCFTA, the continent is also having a deeper economic integration that would affect taxation matters. Therefore, surrendering national sovereignty on tax issues among ECOWAS Member States is inevitable, but would be mutually beneficial; and thus, demanding replacing tax competition in favor of tax harmonization with understanding in the following ways:

1. Replacing Tax Competition with Tax Harmonization

Unless ECOWAS and AU Member States deepen and speed up their commitment to reduce tax incentives through harmonization strategies under the various economic integrations, the region may experience increasing tax competition and leading to a "race to the bottom". Tax competition across Member States under economic integrations of AfCFTA and ECOWAS makes it harder for countries to attain higher tax harmony, administration and collection; leading to ever-declining revenues. In particular, disparities in tax rates, administration and collection across Member States would continue to (a) encourage illicit trade (to be discussed later), (b)complicated operational systems for companies to carry on their businesses and (c) slowed down the economic integration processes of the region.

So far, some significant initiatives for promoting tax harmonization and coordination in the region include those under (a) the ECOWAS Common Investment Code and Policy as well as (b)the various tax and customs programs under the Customs Directorate of the ECOWAS Commission Positively, these initiatives would, to some extent, "freeze" the current provision of tax/customs incentives so that additional harmful incentives are not introduced by Member States indiscriminately. However, Member States governments are expected to show commitments towards these initiatives by surrendering their tax sovereignty for the mutual gains that could be realized from AfCFTA and ECOWAS economic integration initiatives.

Like this Study is doing for Nigeria, other ECOWAS and African Member States should undertake a review all tax incentives in their various countries with a view to reducing or removing many of them, especially those that involve the exercise of discretionary powers by ministers of different countries. With such review, recommendations should be made to appropriate sections of AU to ECOWAS Commissions or African Union that those incentives that remain must be: (i) simple to administer, (ii) shown by the governments to be economically beneficial through an annual basis, (during the budget process, with a publicly available tax expenditure analysis, showing annual figures on the cost to the government of tax incentives) and (iii) shown to the public who the beneficiaries of such tax expenditure are.

2. Issues in Tax Harmony

With ECOWAS Investment Code along with AfCFTA Investment Protocol, investment are now free to move to their best alternative uses within and across national boundaries Member States. However, there remains a policy dilemma for Member States who have traditionally used tax and incentive policy within their borders to alter relative prices and to cause resources to flow to particular sectors or segments of society for justifiable reasons. Therefore, harmonization of taxes is necessary to achieve effective similarity of fiscal policies. While the vast majority of the literature defines tax harmonization as an effort to achieve similar tax rates, the most practical concept is one that encompasses tax harmony among Member States with respect to the following elements:

- First, to ensure that, like is compared with like, across borders of Member States; therefore, critical to such tax harmony are tax administration and collection, including rules, procedures, methodologies and definitions of concepts (i.e if taxes are not applied in similar ways across territories, further efforts at tax harmony become futile).
- The second element of tax harmony is similar tax structures- if some Member States are heavily reliant, as some are, on direct taxation while others are heavily reliant on indirect taxation, it would be extremely difficult to harmonize rates in this scenario, unless there is harmony.
- The third and most debated element of tax harmony is tax rates.-Any serious effort at tax harmonization within a single market, like AfCFTA must include some form of uniformity of tax rates.; this can take a number of forms such as: (a) a uniform tax rate, (b) minimum tax rates, (c) maximum tax rates, (d) tax bands, and (e) tax competition.

3. Basis for Tax Harmonization in Economic Integration

The main thrust of the argument for tax harmonization has been cast in terms of free trade and a single market at both ECOWAS and AfCFTA; however, the following are still some related arguments:

(a) Distortion of Competition

The differences in the overall tax burden of similar investors across ECOWAS or African Member States could result in different after-tax rates of return and different pay-back periods. This would obviously give rise to a distortion in regional or continental conditions as expected in the various rules and protocols on competition leading to frustration of the principles underpinning the internal market; thus keeping them segregated against the economic integration.

(b) Obstruction to the Free Movement of Capital

One of the principles underlying the concept of the internal market is the principle of 'capital export neutrality'. Discriminatory treatment of international investment activities as compared with purely domestic investment activities acts to frustrate the ideal of capital export neutrality by hindering the free movement of such capital. Thus, the creation of preferences for investment in some Member States rather than others prevents capital export neutrality, whilst the diversity of tax burdens affecting businesses wishing to invest in the same Member State means that 'neutrality of capital imports' is not achieved despite the FTA (like AfCFTA) or even the customs union (like ECOWAS).

(c) Distorted Allocation of Resources

With regards to the allocation of resources, another consequence of the above effects of fiscal disharmony across Member States in economic integration is that an optimum allocation of resources within the Community cannot be achieved. This becomes obvious because corporate location or capital investment strategies would not be based on purely economic efficiency such as relative labor and production costs but are ultimately influenced by tax considerations. Just like above, the principle of 'fiscal neutrality' which includes that of 'locational neutrality' and which harmonization within an economically integrated community seeks to uphold, prevents buyers and sellers in otherwise efficient markets to take different courses of action for tax reasons alone. It also ensures that differences in tax systems do not interfere with efficiency in production and consumer choice in the ECOWAS or across the continent.

(d) World Market Competitiveness of Community Industries

It may be validly argued that an optimal allocation of resources together with a reorganization of industry along Community rather than national lines would reduce production costs. As a result, community industries would enjoy economies of scale similar to those enjoyed by their transnational corporations (TNCs) counterparts that enjoy the benefits of vertical integrations of their affiliates (branches, subsidiaries and associates) for their products across their respective regional markets. In their sizeable national market, Nigerian businesses would not have to face phenomena like capital gains tax liability in cross-border mergers and international juridical double taxation. Thus, fiscal disharmony deprives such industries of these advantages so that they stand a lesser chance of proving competitive in the world market.

(e) Administrative Cost Factors

It has been estimated that ten to thirty per cent of the expenditure of the corporate departments of both private and public concerns consists in the administrative cost of catering for the different fiscal systems of the various Member States. Thus companies, particularly small- and medium-sized enterprises (SMEs), would have to suffer the initial costs of tax planning and accounting advice and this only increases the burden of such enterprises seeking expansion in the ECOWAS and continental markets. However, at least partial harmonization of corporate income tax would greatly reduce the financial and practical price presently paid by companies attempting to adhere to various evolutionary and dynamic fiscal systems across the region or the continent.

(f) Lost Revenue

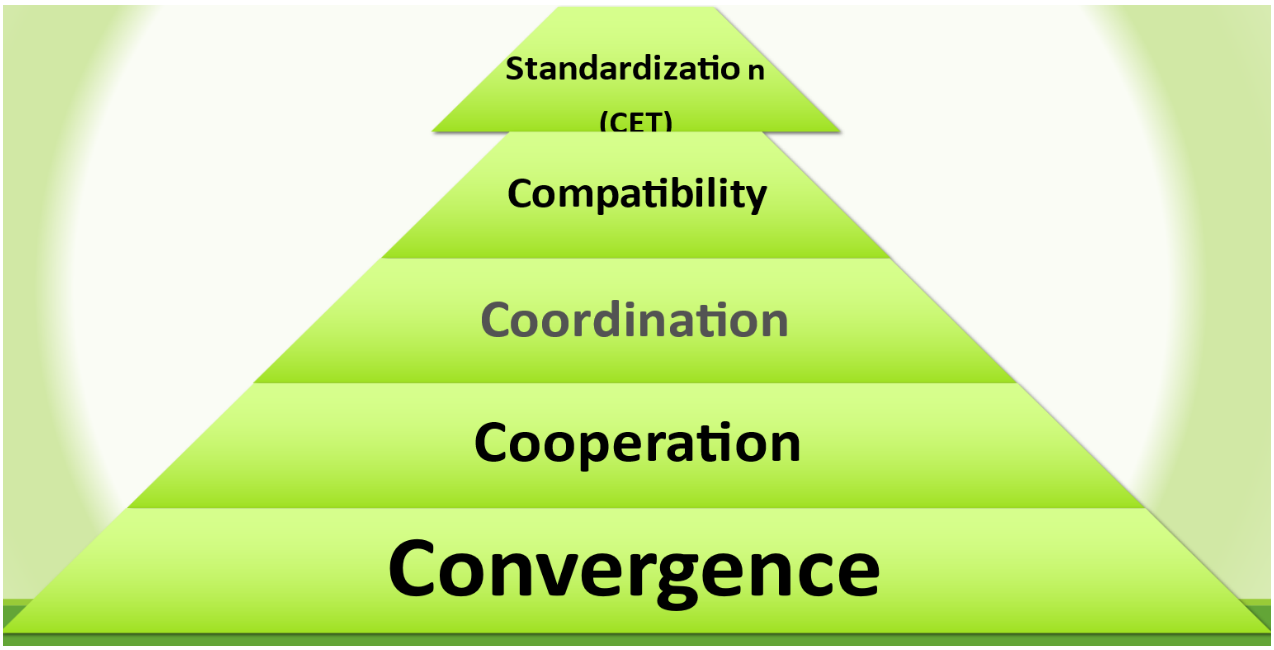
Increased costs for tax planning, avoidance and evasion arise where differences exist in the national tax systems of the various Member States. These activities tend to lead to considerable losses of revenue so that revenue authorities have to make good the lost revenue by digging their hands deeper in the pockets of other taxpayers. Arguably, the harmonization of corporate income tax could diminish the incidence of such activities as the application of non-arm's length transfer prices within African groups of companies. Harmonization of taxes could thereafter contribute to the tendency among Member States to lower the tax burden with the aim of enhancing the position of African businesses in the world market.

4. Levels of Tax Harmonization

There is no agreement in the literature as to whether this means co-ordination at some level or making them completely identical. However, what is available is the classification of the levels of tax harmonization that addresses (a) the taxes being levied, (b) the tax bases, (c) the tax rates and (d) the ways in which taxes are administered. To this end, both Sorenson (2002) and Keheler (1993) argued that in an integrated environment (like ECOWAS or AfCFTA), policy makers could adopt either a policy competition or co-ordination approach towards tax harmonization. While harmonizing tax rates would mean making them more similar or aligned to other systems there is no agreement in the literature as to whether this means co-ordination at some level or making them completely identical. In González Cano's (2001) opinion, compatibility is most relevant at early stages of economic integration when tax harmonization is just beginning.

With these views five levels of harmonization can be recognized, arranged in descending order consistent with the political commitment made by Member States. The levels starts from complete harmonization (or standardization) of taxes to convergence of taxes (or non-harmonization). Between the two radical poles of absolute harmonization and 'non-harmonization', it is possible to identify three other levels of partial harmonization (Figure 79).

Figure 79: Levels of Tax Harmonization



(a) Standardization

This consists of having the same tax rates all among countries; likened to customs union phase with the adoption of a common external tariff (CET) in 2015 by the ECOWAS (i.e having the same tax or, in equalizing the tax burdens imposed on the same item, under equal circumstances). It is the highest degree of tax harmonization (like a customs union, which is the merging of several customs territories into a single customs territory in order to consolidate the free movement of goods, regardless of their origin, provided the goods originating in third countries are cleared in any of the member states). Under such standardization, tax or customs rate must be the same across the customs union's whole external border, otherwise trade deflection and other perverse phenomena would occur.

(b) Compatibility

Unlike standardization, in this next step, political commitment of Member States is weaker in the degree of harmonization. It involves "adjusting the tax structure in order to counteract or compensate for the distortionary effects caused by tax burden disparities upon the integration process". Adjusting those elements in the tax structure does not mean that they should be necessarily identical. That is, when internal tax distortions are detected, they are just to be addressed. With regional or continental tax rate compatibility, it is highly advisable to establish a follow-up mechanism to keep track of what each country in ECOWAS or under AfCFTA is doing with respect to making their taxes compatible so as to ensure that the goal of harmonization is not adversely affected.

(c) Coordination

The concept of tax coordination appears to be any action transcending typical harmonization mechanisms, which might be confined to the two categories above (a and b). Perhaps the best way to define it as tax harmonization "in-between" the five categories; that is, everything that does not fit into any of the first two (a and b) and the last two (d and e).

(d) Cooperation

This kind of harmonization involves the provision of mutual assistance, either for (a) reasons of reciprocity (for instance, one country supplies tax information in the expectation that it will receive information from its counterpart at some other time) or (b) out of mutual interest (such as when double taxation is detected and two countries undertake to cooperate). A distinction can also be drawn between practical cooperation (as in the previous example) and theoretical cooperation (for example, providing assistance or sharing best practices in taxation). Cooperation is the most civilized form of tax harmonization, because (i) no policy is involved, (ii) sovereignty is respected, and (iii) cooperation only happens if there is a previously identified interest, be it reciprocal or mutual. The most typical example of this kind of tax harmonization is the exchange of information between tax administrations among ECOWAS or African Member States.

(e) Convergence.

The loosest category of tax harmonization is convergence in which there is a scale spontaneous movement (sometimes inevitable, though unwanted) towards the same type of solution, as a result of globalization and competition. Tax convergence is the last step of tax harmonization; involving voluntary political commitments because no particular harmonization action has been taken for reasons of political will, but because the country cannot escape from the trend or admits (probably unconsciously or against its own wishes) that this is the best approach to take. Hence, in spontaneous convergence, there is always an element of discomfort or, at least, passivity.

D. Assessment of Tax and Customs Harmonization in Economic Integration on Nigerian Economy

Essentially, tax and customs harmonization are basic ingredients of economic integration as they are meant to tackle harmful tax competition between countries so as to implement the FTA or the customs union by reducing the risks of distorting trade and investment and the erosion of national tax bases through:

- establishing and regularly maintaining an online tax database that provides comprehensive information about countries national tax structures;
- collaborating on tax incentives that encourage investment, rather than those that reduce transparency or purely act as a vehicle for tax minimization;
- creating a clear and transparent system of taxation that harmonizes policies to prevent investment barriers and to avoid double taxation;
- developing expertise of tax officials with support for training programmes and seminars on tax design, policy, and best practices;
- discouraging the spread of tax havens and harmful preferential tax regimes and encouraging those countries which presently engage in harmful tax practices to review their existing measures;
- helping countries move towards the “level playing field” which is so essential to the continued expansion of regional and continental economic growth; and
- developing regional tax guidelines/directives and commentaries which shape good and common tax designs and systems.

The economic integration phase of the region is on the customs union phase, with a Common External Tariff (CET) since January 1st 2015. The phase has allowed member countries to have a common trade policy regarding non-member countries including establishment of common trade barriers. In addition, the phase allows member countries to agree to limit imports of some goods and services by use of a trade quota if they so wish. A member country may want this limited protection to help its infant industries, for example.

1. Tax-Related Challenges of ECOWAS and AfCFTA Economic Integrations

It is assumed that any economic integration that represents a movement towards free trade should be beneficial and welfare enhancing, because free trade maximizes welfare. Based on this assumption, a Free Trade Area (FTA) like ECOWAS and AfCFTA is expected to reduce tariffs for benefits of the people. However, this belief was challenged by Viner (1950) when he showed that the net impact of a regional trade agreement on welfare is uncertain and depends on a number of economic circumstances. In particular, it only when the benefits of trade creation exceed the costs of trade diversion that there would be a net welfare gain in the formation of an FTA like AfCFTA; and verse versa. As earlier explained, the implementation of both ECOWAS and AfCFTA has implications on Nigerian economy as well as other State Parties; and such implication may either be positive or negative; depending on the emerging circumstances.

It is possible for the tax revenue of member states to increase due to increased volume of trade of goods and services within the region as a result of increased market size, economies of scale, and free movement of factors of production across member states and industrialization (trade creation effect); but depending on the elasticity of supply and demand of the commodities traded across the State Parties of ECOWAS and AfCFTA. As State Parties abolish obstacles to trade, it becomes more efficient for producers to enter other Member States markets where prices may be naturally higher, hence facilitating consumer choice and increasing competition among producers. That is, an FTA like AfCFTA, or a customs union like ECOWAS can change the prices of imports across State Parties as a result of tariff reduction; thus, changing the patterns of demand, and consequently increasing tax revenue realized due to increase in tradables of goods and services across State Parties, including for Nigeria.

On the other hand, the implementation of the ECOWAS or AfCFTA economic integration may reduce the tax revenues of the State Parties since it comes with the requirements of abolishing all tariffs on goods and services produced by member states. This is because trade diversion occurs when State Parties in AfCFTA reduce or remove their purchases away from a more efficient supplier outside ECOWAS or Africa (e.g China from our previous example), towards a less efficient supplier within the region or continent (Ghana) into Nigerian economy even at higher prices, with no import duties charged (revenue forgone). A reduction in government revenue by Nigerian government resulting from a loss in customs duties can affect a governments' ability to provide essential public services, and this must be factored in as well. This implies that ECOWAS or AfCFTA State Parties are likely to have both positive and negative effects on their tax revenue and it is the net impact that will determine whether this is a welfare gain or loss resulting from the continental integration.

It is important to note that because there is a narrow range of potential exports of goods and services among ECOWAS or AfCFTA State Parties, as the primary commodities available are usually exported to industrial countries; this could lead to little scope for efficiency gains from both ECOWAS customs union and AfCFTA, and thus revenue loss from the economic integrations. Therefore, whether or not an ECOWAS or AfCFTA trade bloc would be welfare and revenue increasing would therefore depend upon the relative magnitudes of trade creation in relation to the simultaneous trade diversion. Again, trade creation is the replacement of domestic production by lower cost imports from a State Party; and trade diversion is the replacement of lower cost cheaper imports from the world market by more expensive imports from a State Party.

2. Other Implementation Issues in ECOWAS and AfCFTA for Nigeria

Apart from the tax-related challenges, which ECOWAS and AfCFTA economic integrations implementation may pose for Nigeria, the following issues and more will emerge particularly during the period of the Guided Trade Initiative (GTI) of the latter (AfCFTA):

- AfCFTA implementation requires immense financial resources at the continental, RECs and national levels to hire skilled labour to manage the implementation process, to convene forums and workshops for negotiations and to conduct different activities related to trade facilitation.
- Although the AfCFTA has enjoyed significant political will from member states, the delay of negotiations in some areas highlights the stark realities of the clashes occurring between national interests and the wider pan-African agenda; because of different levels of economic development across Member States.
- As AfCFTA implementation advances, the processes are becoming increasingly complex with several different actors and stakeholders crisscrossing RECs, and within the context of some members in multiple RECs; without sufficient guidance for its resolution, can act as a non-tariff barrier to trade and is often instrumentalized as a non-tariff measure.
- Key to AfCFTA’s success will be the competitiveness of intra-African imports and their ability to enable a growth in demand and a preference for them over goods from outside the FTA.
- A significant element of the price of an imported good is the transaction cost of moving it from one country to another; these costs can include transportation, but also non-tariff related monetary and non-monetary costs imposed intentionally at borders or ones that are simply a result of inefficiencies.

- The inadequate road networks and high cost of air and sea transport are challenges that will need significant investment to overcome; while the concept of intermodal and multimodal transportation arrangements are not very clear in the AfCFTA documents
- The approach to and speed of addressing the dispute settlement mechanisms set up by the AfCFTA Secretariat will have a strong implication; and it is still undergoing substantial developments towards how they would be implemented.
- External actors that may affect AfCFTA implementation include countries and regions, outside Africa, that have established or are seeking to establish FTAs with AfCFTA member countries; such agreements include: (i) the established or ongoing bilateral trade agreements between countries such as Kenya and Ghana with Western countries such as the United Kingdom and the United States, (ii) the FTA between China and Mauritius and how both parties may seek to influence the AfCFTA in favour of that FTA, and (iii) the Economic Partnership Agreements (EPA) between the EU and some African countries is another example of an FTA.
- Since a significant portion of African trade is with partners outside Africa, it will be important to monitor these issues closely, and their implications on Nigeria economy as well.
- Related to these issues is the need to attract more FDI into the continent to boost manufacturing capacity to meet African demand for goods under the AfCFTA.

3. Role of ECOWAS and WAEMU in Regional Tax Integration

The common position on customs matters does not translate to those on taxation. According to Obazee (2023), in the West African region, two regional economic entities have been involved in regional tax and customs coordination and harmonization both on tax rates and tax policy. First, the West African Economic and Monetary Union (WAEMU) has had a long history of tax coordination and harmonization efforts since 1994. Its member countries share a single currency - the CFA Franc (Franc de la Communauté Financière Africaine) -, form a customs union, and have had extensive tax coordination and harmonization experience in domestic taxation. The formation of the customs union with a common external tariff (CET) of WAEMU countries was completed by 2000; while directives on value-added tax (VAT) and excises were introduced in 1998. By 2009, the WAEMU region completed a set of directives in relation to capital income taxation. In tax policy, the WAEMU Treaty mandates the convergence of the tax revenue-to-GDP ratio to at least 17%, and the convergence of tax revenue structure. The tax revenue structure is part of the so-called "transition fiscale" (tax transition), under which WAEMU countries must adopt tax and tariff policies that, over time, enable them to shift their revenue structure from trade to domestic taxes. Article 4 of the Treaty explicitly calls for harmonization of member states' tax legislation.

The second regional economic entity is the ECOWAS of which all WAEMU countries are members together with the English-speaking countries in the region. ECOWAS has had less of a history of tax coordination and harmonization and does not explicitly mention it in its Revised Treaty. However, in recent years there has been a shift in efforts towards tax coordination and tax harmonization by making use of the experiences of WAEMU countries and with the aim to mobilize tax revenue, create a better investment climate in the region, and to tackle harmful tax competition, in particular in indirect consumption taxation (e.g. VAT, excises).

4. Tax Coordination in both ECOWAS and WAEMU

(a) Indirect Taxation

Trade Duties Coordination- In 2000 the WAEMU member states agreed a CET with four rates: (i) 0% on essential and social goods; (ii) 5% on primary goods; (iii) 10% on capital and intermediate goods; and (iv) 20% on final consumption goods. However, since January 2015 the CET of the 15 member countries of the ECOWAS, of which WAEMU is part, became effective; liberalizing trade within ECOWAS and nullifying the common legislation on the CET of the WAEMU countries. However, the ECOWAS CET increased tariff protection for WAEMU countries with the introduction of a new 35% tariff band for specific goods, and the possibility to deviate from the CET for 3% of their tariff lines for several years.

VAT Coordination: The Value-Added Tax (VAT) directive in the WAEMU was introduced in 1998. One primary objective of the VAT directive was to assist countries in compensating the revenue loss induced by the reduction of tariff rates on trade with a more efficient tax than cascading sales taxes - which pre-dated the VATs in several WAEMU countries. The ECOWAS has a VAT framework and aims for harmonization, but there is no common legislative in place yet for all the countries. Hence, Member States have a variety of VAT from 7.5% (Nigeria) to 10% (Liberia) to 18% (Togo). Through ECOWAS Commission, Member States are working on the harmonization of VAT exemptions on basic food items in their raw states, medicaments and pharmaceutical products to ensure equal treatment of all economic operators in the community.

Excise Taxes Coordination: The main argument in favor of coordinating the setting of excise taxes in a common market, with fiscal borders, like ECOWAS, is to minimize intra-community cross-border shopping and smuggling. ECOWAS is set to harmonize excise duties on tobacco and other unhealthy products to increase revenue and reduce consumption of these products in the sub-region. Member states had begun work on draft directive to harmonize excise duties on tobacco products and include legislative and regulatory provisions of member states in tracking and tracing mechanisms related to tobacco products. The draft document considers the establishment of an ECOWAS Customs Code aimed at harmonizing customs legislations in the sub-region, in line with international requirements. Member states had developed a draft institutional framework for monitoring and steering of the ECOWAS Fiscal Transition Programme.

(b) Direct Taxation

Corporate Income Tax Coordination: The harmonization of the tax rates and tax base have been implemented in all WAEMU countries since 2008; however, there are many exemptions. The most important elements of directive on tax base competition include: flexibility in setting tax depreciation rules; and flexibility in designing transfer pricing and thin capitalization rules. But the most important source of tax competition among them (WAEMU countries) remain the derogatory regimes provided in non-tax legislations, such as Investment Codes, Free Zone Codes, and other sectoral codes, which are explicitly permitted under Article 8 of the corporate income tax directive. ECOWAS' focus is yet to be on indirect tax coordination and harmonization and has not yet made significant progress on direct taxation.

Multilateral Tax Treaty: ECOWAS has drafted a Supplementary Act adopting community rules on the taxation of income, capital and inheritance and the rules for their application within ECOWAS to eliminate double taxation, remove barriers to cross-border trade and investments, combat tax evasion, capital flight and facilitate revenue mobilization. The draft Regulation of Exchange of Information to counter tax evasion, improve voluntary tax compliance and stimulate resource mobilization is very much needed as six ECOWAS member states have not committed to any information exchange instrument.

5. Resolving Differential Tax Regimes in ECOWAS Economic Integration and Lessons for AfCFTA

Because the economic integration phase of the region is on the customs union phase, there appears no problem since the adoption of CET in ECOWAS. However, there is need for reducing tax impediments, particularly those affecting trade and investment in the region (particularly between WAEMU and ECOWAS) to enhance the benefits of ECOWAS economic integration while also acting to minimize the potential for fiscal evasion across Member States. This could be achieved through:

- adopting a process of an Agreed Positions towards the levels of harmonization from standardization to convergence, as explained above on taxation issues;
- adopting a non-discrimination principle, under which the tax treatment of nationals (individual and corporate) of one country would be no less favorable than the tax treatment of nationals from the other Member States;
- adopting a regime of maximum withholding tax rates for dividends, interest and royalties between Member States and considers a timetable for phased reductions for withholding taxes between the States, possibly leading to their eventual abolition;
- adopting a system of flow-through provisions for treaty negotiations with non-ECOWAS countries that would facilitate negotiations by one or more ECOWAS Member States on behalf of the Community;
- adopting Most Favored Nation (MFN) arrangements internally, such that every Member State would be obliged to offer all other States the same tax treaty terms as any negotiated with non-ECOWAS countries;
- adopting a formal process for dispute resolution and information sharing between ECOWAS Member States through their revenue agencies; and
- investigating some of the international best practices on taxation concepts being developed and adopted elsewhere to assist the region (ECOWAS) in its economic integration.

E. Consolidation of ECOWAS Customs Union and Fiscal Harmonization

At the 4th ECOWAS Finance Ministers' Meeting in Abuja, on the 2nd of November, 2018; the "Draft Directive on Mutual Administrative Assistance in Tax Matters for all ECOWAS Member States" was deliberated upon, among others issues. The Ministers agreed that if these issues are appropriately addressed, they will help to improve the revenue profiles of Member States through (i) the efficient tracking/taxation of products, (ii) eliminate double taxation and illicit financial flows (IFFs), and (iii) institute strategies for development-oriented tax treaties between Member States of ECOWAS and other countries. With appropriate directives and regulations, an ECOWAS Tax Treaty Model and Mutual Assistance in Tax Collection can (a) potentially ease tax treaties negotiations among the Member States, (b) eliminate tax evasion/avoidance within the region, (c) encourage tax audit and exchange of tax information as well as enhance regional integration; and (d) deepen the integration of the region within the global strategies to improve public revenue through the elimination of tax malpractices". At the Sixty-Third Ordinary Session of the Authority of Heads of State and government of

ECOWAS Member States adopted the Supplementary Act A/SA.3/07/23 on Mutual Administrative Assistance on Tax Matters, in Bissau, on 9th July 2023.

1. Objective and Scope of the Supplementary Act

The objective of the Supplementary Act is to enable the Member States to assist one another in tax matters with a view to preventing and fighting tax evasion and avoidance; as well as ensuring that Member States tax issues do not hinder the implementation of the various programs in the regional economic integration. Such assistance include: (a) the exchange of information in tax matters; (b) the carrying out of tax examinations abroad; (c) the carrying out of simultaneous tax examinations; (d) the collection of revenue claims, including measures of conservancy; and (e) service of documents. With the Act, ECOWAS Member State shall provide administrative assistance whether the person affected is a resident or national of a Member State. The areas of tax covered in the Act, include, but not limited to: (i) all taxes on income, capital, inheritance and to taxes on goods and services imposed by or on behalf of the Member States; and (ii) any identical taxes or substantially similar taxes imposed by or on behalf of the Member States after the date of entry into force of this Supplementary Act in addition to or in place of the existing taxes.

2. ECOWAS Directives and Regulations on Mutual Administrative Assistance on Tax Matters

At the 90th Ordinary Session of the ECOWAS Council of Ministers, held in Bissau, Guinea-Bissau, between 6th - 7th July 2023, the following documents were adopted to facilitate the implementation of the Mutual Administrative Assistance on Tax Matters.

a. Supplementary Act A/SA.3/07/23 on Mutual Administrative Assistance in Tax Matters between ECOWAS Member States.
b. Regulation C/REG.3/07/23 Amending the List of Categories of Goods contained in the ECOWAS Tariff and Statistical Nomenclature.
c. Regulation C/REG.4/07/23 Determining the list of Exceptions to the Community of Origin Criterion of Change of Tariff Heading.
d. Directive C/DlR.2/07/23 on the harmonization of rules on Beneficial Ownership of legal Entities within ECOWAS Member States.
e. Directive C/DlR.3/7/23 on the harmonization of the legislations of ECOWAS Member States on Excise Duties.
f. Directive C/DlR.4/07/23 on the harmonization of the methodology for evaluation of Tax Expenditures in ECOWAS Member States.

g. Directive C/DlR.5/07/23 on the creation of the institutional mechanism for monitoring and evaluation of the ECOWAS Fiscal Transition.
h. Directive C/DlR.6/07/23 on the harmonization of Transfer Pricing rules within ECOWAS Member States,
i. Directive C/DlR.7/07/23 on model Code of Ethics and Conduct for Tax Administrations in ECOWAS Member States,
j. Directive C/DlR.8/07/23 harmonizing the laws of the ECOWAS Member States on Value Added Tax (VAT),

It is believed that when these directives are well implemented, the Community, it would boost domestic revenue for national development; as well as strengthen the ECOWAS Customs Union and deepen intra-community trade.

F. Nigeria Tax and Customs Duties in the AfCFTA Economic Integration

Taxation issues in Africa could be complex and varies widely depending on the country and the level of economic development. AfCFTA as a trade agreement, aims to create a single market for goods and services across the continent. According to ATAF (2022), the growing trend of tax-related Investor State Dispute Settlement (ISDS) under the International Investment Agreement (IIA) framework should be a concern for tax authorities everywhere, including tax authorities in African countries. As of 2021, the United Nations Conference on Trade and Development (UNCTAD, 2021), identified 165 Investors States Dispute System (ISDS) cases where tax-related claims arose, accounting for 15% of the 1,190 publicly known ISDS cases overall. IIAs impose obligations on states that can create frictions with taxation measures and tax policymaking. Since a majority of African Double Taxation Agreements (DTAs) do not provide for arbitration; not all tax issues fall within the scope of DTAs; giving rise to various difficulties with regards to the Mutual Agreement Procedures (MAPs). Thus, the domestic outcomes of such disputes may not always be satisfactory to many countries, the increasing tendency of investors to make use of ISDS to challenge tax measures using the investor protections contained in bilateral investment treaties (BITs) and investment chapters in free trade agreements. Much like the trade overlaps. These overlaps with IIAs have given rise to expensive outcomes for countries; particularly, developing ones.

Tax harmonization in AfCFTA would be the process of fine-tuning tax systems across various African countries in search of common policy objective that suite African peculiar situations. Such development would be hinged on the need to bring about better and improved efficient allocation of resources, through the implementation of common tax structures and policies to attain synchronicity and convergence in tax issues for promotion of the continental trade and investment in the following ways:

- Harmonization of trade and investment policies across the continent, could lead to the harmonization of tax laws in the areas of: (i) tax rates, (ii) the elimination of double taxation, and (iii) the adoption of common tax rules and regulations;
- Alignment of tax policies, regulations, and administrative procedures to create a more coherent and consistent tax framework across State Parties;
- Elimination of barriers and simplification of tax procedures to create a level playing field for businesses operating in different countries; and
- Development of common tax policies and regulations, the adoption of common tax procedures, and the implementation of effective tax administration and enforcement measures.

Therefore, there is need for collaboration among African countries on tax issues such as: (i) the sharing of information and best practices, (ii) development of common tax policies and regulations, (iii) exchange of information and best practices among tax authorities, (iv) joint enforcement of tax laws, and (v) the development of common tax policies and regulations. All of these will help to reduce tax-related trade barriers, promote compliance, and improve revenue collection across African countries. Therefore, State Parties in AfCFTA must establish appropriate legal and institutional frameworks, develop effective communication channels and cooperation mechanisms, and engage in capacity of Member States to bring several benefits, including:

- Improved tax administration and revenue collection: Collaboration among tax authorities will lead to improved tax administration and revenue collection, which can support public services and development programs in participating countries.
- Reduced tax-related trade barriers: The harmonization of tax policies and regulations will help to eliminate or reduce tax-related trade barriers, making it easier for businesses to operate in different countries.
- Enhanced cooperation and exchange of information: Collaboration among tax authorities will promote greater cooperation and exchange of information, leading to more effective enforcement of tax laws and improved tax administration.
- Improved investment climate: A more consistent and predictable tax environment across participating countries will help to create a more attractive investment climate, leading to increased foreign direct.

- Lower trade costs and promote regional value chains; thus, providing continental consumers with greater variety of goods and services, with the consequent effects of balancing out the short-term losses of individual country's revenue

The above issues concerning the interaction of taxation measures with trade and investment frameworks, should be treated as a forewarning by State Parties to the AfCFTA. If cooperation and integration are the real desire of Member States in the continental economic integration, it is time to discuss a shared approach on the use of tax incentives, at the very least to protect or support the lesser developed nations in Africa. There is the need for dialogue between the taxes, trade and investment officials across the continent to create a shared understanding of the challenges and solutions. Since the RECs have a lot of experience in integration efforts; there existence as building blocks provide a good basis upon which the AfCFTA tax harmonization can build on.

G. Review of Nigeria Position in the EPA with European Union

At the concluding days of the Doha negotiations in November 2001, WTO members signed a waiver extending the Cotonou Partnership Agreement (CPA) which allowed the Cotonou trade regime to be extended provided that it became WTO-compatible, that is a reciprocal Free Trade Area (FTA). After a thorough impact analysis, negotiations and numerous consultations with stakeholders from public and private sector of the Nigerian economy, Nigeria is yet to sign the EPA, with EU following years of numerous negotiations led by the EU. However, with negative reactions from Nigerian manufacturers, civil society actors and trade experts citing the imbalanced benefit to European producers that would have unfettered access to the Nigerian market over local industries, the former President, Goodluck Jonathan refused to sign the EPA in 2014.

Thereafter, during the 49th Ordinary Session of the ECOWAS, in Dakar, Senegal in June 2016, the government of Muhammadu Buhari delayed endorsing the EPA, opting instead to continue consultations with Nigerian citizens. As a contribution to the consultation process, this briefing examines the EPA in the context of the Nigerian economy and offers alternative paths for sustainable economic development. Many of the issues raised by Nigeria at either the regional level or at EU level; at the ad-hoc EPA Review Committee (set up by the ECOWAS Head of States) are still pending. Unfortunately, after wide consultations in Nigeria, national stakeholders concluded that the following outstanding issues should be resolved before the economy can accede to EPA.

1. Significant Tariff Revenue Loss

Being an FTA, the implications of EPA on Nigeria's industrialization programme is that Nigeria will incur significant revenue loss through removal of tariff. Based on the provision of Article 10 of the EPA that goods originating from the EU exported to West African countries shall be free of customs duties and the provision of Article 35(1) which also restricts parties to the agreement from subjecting imports form any of the parties to any form of internal taxation or charges except transport charges that are based exclusively on the economic operation of the means of transport, Nigeria will be losing billions of dollars in revenue from customs duties, taxation and other charges annually throughout the implementation period of the EPA. EU promised to provide financial resources to cover net fiscal impact, there has been need for more clarity on the implementation modalities of such provision overtime. Nigeria currently forecasts significant losses in government revenue due to the signing of EPA, which could result in budgetary challenges and fiscal constraints for our country.

2. Product Reclassification

Nigeria has concerns over the current product classification and has requested for product reclassification of about 180 tariff lines before she could consider EPA. These reclassifications are necessary, as signing the EPA in the form EU presented it could lead to de-industrialization, significant job losses, loss of investments, and closure of industries run by MSMEs. As a long-term solution, ECOWAS countries will need time to address the issues of overall competitiveness of their real sector. In the meantime, however, products should be reclassified to ensure adequate protection of local producers. Nigeria is concerned that without effecting the reclassifications proposed, there could be trade imbalances, due to an influx of imports.

3. EPADP Financing

Nigeria has also expressed concerns over the Euro 6.5b for the EPA Development Programme (EPADP) financing. However, the modalities for accessing the funds by ECOWAS countries has not been made clear. For instance, if co-financing is required, that will have implications for resource allocation and budgetary provisions of the country during the period. Furthermore, EPADP amount proposed is grossly inadequate for the entire ECOWAS sub-region. The current EPADP proposal implies euro 1.3 billion in development funding for all 15 ECOWAS countries each year.

4. Additional Safeguard

There is a need to review the sub-Articles 7, 8 and 9 on bilateral safeguards to incorporate the Regional Supplementary Protection Measures in the EPA text. ECOWAS has not addressed this concern. Given the potential impacts of the EPA on industrialization, employment and investment, it is important that more safeguards must be put in place to protect the less developed West African economies from unhealthy competition from EU products.

5. EU-ECOWAS EPA Text

Nigeria requested for a review of the clause on the removal of export subsidies (Article 48.6) to provide for a stronger commitment from the EU on export subsidies. While the issue was addressed by removing the word "refrain" and in its place insert "undertake", meaning that ECOWAS member States can subsidize exports in line with WTO rules; the current flexibility notwithstanding, the text in the EPA does not reflect EU's commitment to definitively end the use of export refunds for destinations into Africa. Again, this provision could also restrict Nigeria's policy space to pursue broad national objectives in this respect.

6. The EPA Review Clause

Nigeria has repeatedly expressed concerns over the review clause in Article Ill of the ECOWAS EPA with EU. The chapter should be crafted with more clarity to guarantee a review of the EPA every 5 years as intended; and that ECOWAS Member States should reserve the right to pull out if the EPA proves disadvantageous to the regional economy. This prayer has never been accepted by EU.

7. Customs Duties: Standstill Article 7, Article 9

Nigeria is concerned that the standstill clause in Article 9 is worded ambiguously. The standstill clause freezes the currently applied tariffs/customs duties in effect from the date of entry into force of this Agreement. It fails to recognize the take-off of the CET since January 1st 2015. Nigeria with other ECOWAS Member States are still re-classifying many tariff lines in the CET, even as the region enter into AfCFTA as a customs union territory. WA-EPA stipulates as follows: "No new customs duties on imports shall be introduced on the products covered by liberalization between the Parties, nor shall those currently applied be increased from the date of entry into force of this Agreement". This article limits the flexibility for any adjustment to policies to address trade and industrial concerns for development. Nigeria and ECOWAS should have the right to revise the CET in response to changed circumstances (e.g. a food crisis), or as we move up the value chain. This buttresses Nigeria's request for reclassification of the products in order to ensure that our Industrial Revolution Plan is not derailed.

8. Fees and other Charges — Article 8

The EPA puts ECOWAS application of levies on any tariff line under unnecessary pressure. Even, under the WTO, ECOWAS has more flexibility to shield away additional charges or fees/levy under the category of "Other Duties and Charges (ODC)". The EPA text Article 8 limits the policy space for ECOWAS Member States to manage their economies for growth and development, using instruments such as levies for infrastructure — e.g. Port development levy. This issue, if not addressed, might undermine the competitiveness of local products through poor funding of infrastructural development.

9. Export Duties and Taxes (Article 13)

Article 13 prohibits new export taxes and current ones shall not exceed duties imposed on similar goods. Article 13 calls for urgent reclassification of products in all the Groups (A-D). If products are not reclassified, the Article will limit ECOWAS policy space to regulate her economies for industrial growth and development. The SADC EPA allows some policy space for the introduction of mineral export taxes for a period of 12 years (renewable) on a total number of 8 products, as defined at an HS tariff line level.

10. Prohibition of Quantitative Restrictions (34)

Article 34 prohibits quotas, import and export licenses. If Nigeria bans or applies quotas or licenses on any imports which was permitted under Art XI.2c(ii) of GATT, then this would not be permitted under Art 34 EPA as it does not include Art XI.2 GATT exceptions. The Article directly affects the backward integration policy adopted in the Nigeria Industrial Revolution Plan (NIRP) e.g. cement, sugar. For instance, the article invalidates the policy in 2 ways: firstly, by invalidating the restriction on importation of certain products; and secondly by invalidating the granting of quotas for the manufacturers importation. Nigeria's industrial policy, as well as other sectorial policies in this respect, could be challenged under the EPA. Product reclassification is therefore critical before endorsement of the EPA.

11. MFN Clause (Article 16)

The MFN Clause, Article 16 of the EPA in its current form, puts the trade relationship of Nigeria and other economic blocs and countries in jeopardy. It would serve as a disincentive to preferential agreements between West African nations and other countries outside ACP (including Brazil and China). For instance, with AGOA, the US may demand extension of MFN preference to them and vice versa. In effect, it reduces ECOWAS' ability to have trade co-operations with other economic blocs and individual countries. The acceptance of MFN clause by ECOWAS would expose the region to additional fiscal loss due to demand for a reciprocal preference from third party trading partners, such as the United States. This will further reduce government revenues, capital investments, as well as increase unemployment. On the side of third-party countries, there will be trade diversion as cheaper EU goods crowd out other bloc's imports.

12. National Treatment on Domestic Taxation and Regulation (Article 35)

Article 35 provides that products and goods from the EU will be given national treatment in terms of taxes, as well as with respect of all laws, regulations and requirements affecting their sale, their offer for sale, purchase, transportation, distribution, or their use on the domestic market. This effectively provides that there will be no distinction between "made in Nigeria/ ECOWAS" goods and European goods. It does however provide an exception for public procurement. This provision invalidates Nigeria's Oil and Gas Local Content Policy, which is an anchor policy of the Nigerian government. For example, an International Oil Company can use this provision to assert that it is not bound to respect the local content requirement for locally fabricated equipment etc. Given the critical nature of the Nigerian Local Content policy (and related laws) to our economic development, the country will not accommodate any provisions that threaten this agenda. Beyond the Oil and Gas Local Content policy, it will also prevent ECOWAS member States from using the policy in other sectors of the economy, for developmental purposes. In addition, the provision has nothing to do with the WTO requirement for "substantially all trade" liberalization, and it has no place in an EPA whose main focus is to help guarantee ECOWAS market access.

13. Institutional Frameworks (Article 91-98)

Article 91 to 98 provides for Institutional Frameworks for the EPA. It provides for the establishment of EPA Council comprising of European and ECOWAS Ministers, which will be used for consultations and which can make binding decisions on issues arising from implementation of the agreement. The establishment of this Council and its mandate reduces the current flexibility enjoyed by the ECOWAS governments in terms of their respective industrial and trade policies. It equally bound the region to take appropriate decisions at AU level. Essentially, the Council might have an effective veto power over key aspects of ECOWAS Member States economic policy. It is important for ECOWAS to examine the functions and mandate of the Council and to be certain about the amount of authority it will cede to the Council. Well industrialized emerging market countries such as India, China, Brazil and Indonesia do not have similar restrictions on their trade and industrial policy; why should ECOWAS? The EPA text should therefore be amended accordingly.

14. Monitoring and Evaluation Indicators/ Benchmarks

Nigeria has raised concerns on the need to develop clear monitoring indicators and benchmarks to track key economic metrics, such as - loss in revenue, impact on jobs, and reduction in investments. In addition, we would require that these key metrics be included in the body of the text. Though EU accepted to develop a new text, but states that the indicators will be formulated after signing the EPA. There is a need to agree on some base indicators before the signing of the EPA, while others can be added subsequently.

15. EPA and Nigeria Environmental Issues

Nigeria is currently grappling with the challenges of environmental degradation as occasioned by petroleum exploitation activities and industrial toxic wastes in its different regions. The disposal and treatment of waste can produce emissions of several greenhouse gases (GHGs), which contribute to global climate change. The effect of this poses a serious threat to the environment due partly to the level of toxic waste that produces methane (GHG gases) that released during the breakdown of organic matter in landfills. Notwithstanding, efforts are being made by the Nigerian government to mitigate the impact of the all these on the environment and ultimately on the lives of the citizens. However, with the proposed EPA, the efforts to sanitize the environment will be jeopardized as provision in the EPA would restricts the parties from taking any measure that will create trade barrier even when such measure or measures are meant to protect the environment. Article 25(3) of the Agreement provides that: ”each Party shall also ensure that the sanitary and phytosanitary (SPS) measures taken to preserve human health or safety or the lives or health of animals and to protect plants and the environment shall not have the purpose or effect of creating unnecessary barriers to trade in goods between the two Parties”

This is clearly a conscious effort to promote dumping of goods that have the tendency to pollute the environment in West African countries, and particularly with the provision of Article 20 of the Agreement which prevents any of the parties from individually or collectively taking anti-dumping measure or countervailing measures, particularly when investigation revealed the imported goods can cause injury. This is against the spirit of fair trade and has the tendency to create more environmental problems for Nigeria.

16. EPA Opposes Nigerian Local Content Policy

For every export there is the import content. The import content represents the proportion of the export value that will be paid abroad for materials used in producing the exported goods. To minimize the payment for the factors of production, a nation has the responsibility to determine and formulate policies around promoting the use of local raw materials such as the Nigerian Local Content Policy. However, Article 35 (3) of the Agreement restricted any of the parties from formulation such policy or regulation. The Article provides that:

“Neither Party shall establish or maintain any internal regulation relating to the mixture, processing or use of products in specified amounts or proportions that directly or indirectly requires any specified amount or proportion of any product that is the subject of the regulation to be supplied from domestic sources. Furthermore, each Party shall refrain from applying any other form of internal quantitative regulation with the aim of providing protection for its output"

This further exposed the Nigerian economy to more vulnerability. The economic implication of allowing foreign products or activities to dominate Nigerian market is that the GDP will be greater than the GNP. Unrestricted importation into the Nigerian economy will not only have implication on the nation's GDP but will also reduce the GNP. All incomes from European exports to Nigeria will be repatriated without flowing through the Nigerian economy.

So, the multiplier effect of import trade activities is zero, while GDP may appear to increase, the real income available to the country is on the negative. The GNP defines the real per capita income, but where this is on the negative, the result is an economic situation where high level of GDP is recorded but real income of its citizens is relatively low. The long run economic implication of the above is economic stagnation and its eventual recession. In such scenario, no meaningful economic development will be achieved or recorded; all indices of development which are the best tools for measuring economic development would be on the negative.

17. EPA is a Threat to Nigeria's Local and Infant Industries

Nigerian manufacturing Sector is currently highly import-dependent, with an average import content of 55 percent. The sector 28 contributes only about 7% of the GDP. The manufacturing sector presents the country with the best opportunities and potentials for employment creation and export led growth, especially within the ECOWAS region. It is however currently constrained by policy inconsistencies, lack of economic infrastructure and extremely high cost of business operation. According to a report, Nigeria's manufacturing sector suffers about 30-35 per cent disadvantage on cost over it competitors in Africa and Asia. Infrastructure deficiencies involve problems in the power sector, telecommunications, transport, and other utilities, resulting in high production cost and uncompetitive export of goods in the world market. The near collapse of the power sector is a major setback in the effectiveness of the manufacturing sector.

The lack of competitiveness, characterizing the Nigerian manufacturing sector has made the operating organizations as well as other concerned agencies wary of the liberalization scheme of the EPA. The key players in the sector fear that because the Nigerian economy is disadvantaged in international competitions, the EPA's call for broad opening up of the economy will, on balance, only erode the surviving bases of the remaining struggling 29 economic activities in the country

In re-opening the negotiation of EPA with EU, Nigeria should consider that: (i) revenue losses against the welfare gains spread over a long-time span; (ii) gains to consumers and producers are likely to be limited as well; (iii) the EPA will likely promote import of intermediate and semi-processed goods into Nigerian economy if well re-negotiated; and (iv) dynamic effects of the EPA are likely to be important, inducing competition against domestic industries in the country. Therefore, (a) the EU-ECOWAS EPA Protocol should be redrafted, re-negotiated and simplified to be conditioned to Nigeria's emerging peculiar realities at ECOWAS, AfCFTA as well as similar engagement with United Kingdom that commenced in 2022; (b) the re-negotiations should not ignore the service sector due to potential gains for the country, because she has comparative advantage in it; (c) EPA re-negotiations should focus on providing adequate resources to support an appropriate regulatory framework in the West Africa region; and (d) the EPA should consider the commitment of Nigeria in AfCFTA, as the basis for re-negotiation.

SECTION VIII: IMPLEMENTATION OF TRADE AND CUSTOMS POLICY

A. Capacity Building

Organizational effectiveness to implement the Trade Taxation and Customs Policy rests on the efficient and effective performance of workforce that makes up the organization. This in turn, rest on richness of the knowledge, skills and abilities possessed by the workforce at the TSD. Thus, the main objective of capacity building is to increase efficiency of Staff in the TSD with the resulting effective implementation of the Policy. This is one of the major ways by which FMoF can invests in the workforce for greater return today and even in the foreseeable future on issues affecting tax and customs as related to trade. To this end capacity building is like sharpening an existing skill in order to reflect the trends in technology and other social –cultural environmental changes of an organization.

1. Elements of Capacity Building for the Policy

The elements for capacity building in this Policy involve: (i) issues in multilateral and regional trade; (ii) Nigeria's position in economic integrations; (iii) operational systems of NCS; (iv) Nigeria tax and incentives on trade matters. Specific trainings on items in these areas would improve TSD, NCS and FIRS staff enhance the abilities of the employees to perform the tasks required by their different institutions on tax, customs duties and trade matters. With much interaction with relevant institutions in the course of this Study, we discovered that the current capacity building and development programmes are constrained by the following incidences or practices;

- the failure to determine capacity building needs reliably and relevantly;
- inadequate funding of capacity building;
- burying or sacrificing the capacity building function in organizational policies;
- failure to systematically evaluate the effects of capacity building;
- unwarranted dumping or muddling of the steps in the standard capacity building process (viz., design, implementation and evaluation);
- the unwillingness of supervisors to train the subordinates on the job or reveal the secrets of the job; and
- failure to engage credible professional trainers and adequately brief trainers on the specific trends in an organization; and so on.

2. Options for Effective Capacity on this Policy

The options for effective capacity building on this Study could be viewed from three basic perspectives: First, the option of an enhanced regulatory capability on the part of FMoF, FIRS, and NCS for effective enforcement of manpower policies. This could best be appreciated considering the special roles each of them plays in trade taxation and customs activities in Nigeria. Secondly, is the need for these three main institutions to be persuaded to in make their institutions embrace well designed policies at improving the development of their manpower for better efficiency and effectiveness. Thirdly, and as a matter of fact, the success of each of these institutions should no longer be measured in terms of the magnitude of revenue; but with the macroeconomic policy objectives the nation is pursuing as well as with the national commitments at regional, continental and multilateral levels based on the principles of pacta sunt servanda.

B. Have Trade Taxation and Customs Engagement Process

A wholistic consultations/engagement are platforms (Figure 80) through which interested and impacted parties on the Nigeria Trade Taxation and Customs matters can share their input and perspectives on the implementation process. The terms stakeholder consultation and stakeholder engagement are often used interchangeably to mean the same thing. Since the establishment of Trade and Customs Taxation Policy is a government assignment, Federal Ministry of Finance (FMoF)could use both engagement and consultations with the relevant stakeholders in its implementation process. However, while consultation is transactional type of process, engagement is an interactive process. In engagement, an answer to a question prompts a new question and vice versa but consultations do not have to offer such kind of interaction always. However, in some instances, consultations would be enough because of the regulatory aspect of the policy. The FMoF could use both strategies to seek the views of those affected by this Policy. By ensuring that affected and interested parties express their views about the policy, the FMoF decision-making process about the Policy becomes better informed, and more accountable.

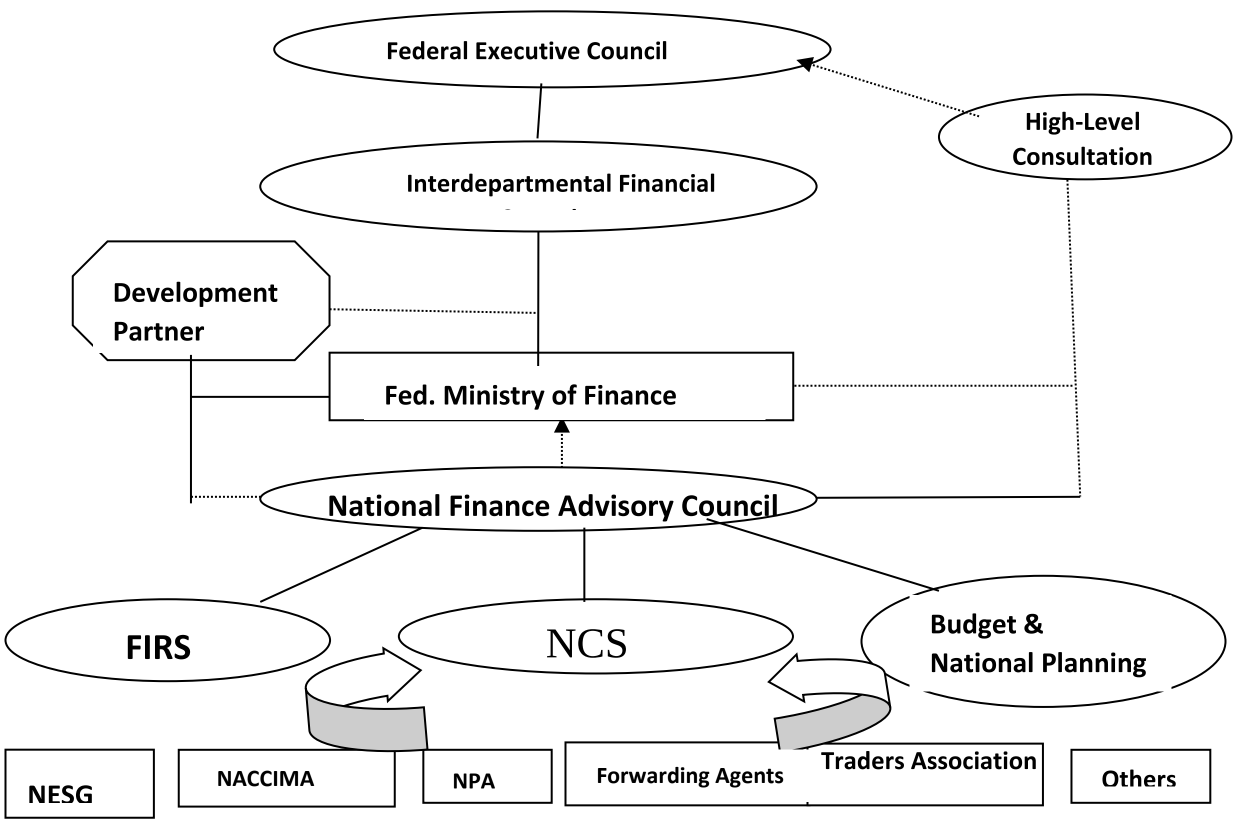
1. Areas and Types of Engagement and Consultation

The scope and types of engagement/consultations involves among others: (a) any new policy development process, including proposed new policies or changes to regulation; (b) country partnership strategies, global thematic studies, and (c) emerging programs that must include engagement/consultation with stakeholders. However, the types of engagement/consultations with stakeholders depend on the purpose such as (i) whether stakeholders are consulted to gather their ideas and input, (ii) whether they are consulted to validate a decision already made, or (iii) whether they are consulted on options to help the FMoF make a decision. In any of these areas, engagement/consultations methods and formats would vary depending on (a) the scope of the FMoF's proposed engagement (local, national, regional, or global), (b) the purpose of the engagement, (c) the nature of the issues being discussed, and (d) the parties and stakeholders interested in influencing the outcome of the process. Effective stakeholder engagement could (i) improve the implementation of the Policy, (ii) enhance its acceptance, and (iii) make a significant contribution to its successful design and implementation.

2. When Are Engagements and Consultations Conducted?

It is important that engagement/consultations are conducted right from early in the process when policy is being formulated; country strategy, programs, or thematic study objectives and approaches are still under consideration. In fact, consultations commence immediately after the consultant that prepared the policy submits the report approval of the engagement and consultation plan.

Figure 80: Trade Taxation and Customs Engagement



3. What are Engagement and Consultation Principles

Regardless of types, format, scope and duration of an engagements/consultations with relevant stakeholders there are a number of principles that could govern the process and, when applied, make it effective.

i) Openness

The process would be open, that is, the FMoF is prepared to be influenced when making decisions; the Ministry is open to the input from stakeholders and stakeholder contributions will be taken into account.

ii) Access to Information

Stakeholders would have access to all relevant information in advance, for their effective engagements. This principle applies to information on the engagement/consultation process as well as materials that would help stakeholders to provide informed opinions on the subject of consultation. Information is primarily accessible on dedicated engagement/consultation websites, however, it can be customized and made available as needed.

iii) Accountability

The input and feedback from each stakeholder would be collated and assessed, shared back with stakeholders, and brought to the attention of decision makers. In such a consultative process, the FMoF is, therefore, accountable for the outcome of the engagement/consultation and for how stakeholder input has informed and helped shape the Policy.

iv) Transparency

The consultation process would be transparent as information is available to stakeholders about relevant aspects of the process, stakeholder engagement, stakeholder input, consultation outcomes, and how stakeholder input is used. All those who may be impacted by the Investment Policy or are interested in participating in an engagement/consultation process need to be made reasonably aware of the process. This means making an effort to reach all impacted groups, experts, and other relevant and interested stakeholders. Stakeholders should be informed of proposed consultations through dedicated consultation websites, through the FMoF Engagement/Consultation Hub, and through other appropriate means (press releases, and advertisements, newsletters etc.). The Hub will notify stakeholders who have signed up to receive information on consultations.

v) Accessibility

FMITI would ensure that stakeholders have reasonable access to the process. The methods chosen for the consultation must be suitable for the intended stakeholders, including people with special requirements. Additionally, the information provided to stakeholders should be reasonably easy to comprehend.

4. Implementation Key Components

Regardless of the type, scope, subject, and duration of consultation, which the Ministry wants to adopt, a well-conducted process incorporates a number of key components that guide the planning and implementation of an engagement/consultation exercise. An engagement/consultation plan, included in the documentation to the National Finance Advisory Council , and made available publicly after approval, provides (a) an overview over the subject and purpose of the consultation process; (b) different rounds and consultation periods as appropriate; (c) targeted stakeholder groups; (d) methods; (e) timeframes; (f) ways to document, communicate and disseminate the process; (g) feedback management mechanisms as well as feed forward stakeholder input into decision-making; (h) anticipated end product; and (i) contact information.

i) Clear Subject and Purpose

The subject matter and the purpose of consultation need to be clear to stakeholders. Information provided to stakeholders about the consultations on the Policy would include in particular: (a) why stakeholders are called upon to share their views, (b) for how long, (c) on which topics/issues/themes, (d) the scale of the exercise, (e) the scope of influence, (f) how the consultations will be run, (g) how stakeholder input will be used after the consultation ends, (h) how it will be reported and where, and (i) how stakeholders will be notified about the use of the feedback they provided.

ii) Stakeholder Engagement and Representation

The success of stakeholder consultations depends on the transparency and the inclusiveness of the selection of stakeholders to be consulted and on the representativeness of those who will eventually provide input into the Policy. Adequate representation of stakeholder groups in the consultation process would be ensured, keeping in mind the multi-stakeholder dimension of issues on investment domestically and internationally and its impact, as well as the fact that Nigerian stakeholder groups on the subject differ among issues and topics. That is why the engagement/consultations should be designed to focus on the parties directly affected by, or with an interest in, the proposed engagement. Stakeholder organizations, for example business communities, civil society organizations and consultative bodies could help in identifying target groups. However, the FMoF has overtime been working with appropriate trade, community, private sector, governments, Indigenous Leaders, or civil society organizations to access stakeholders who would otherwise go unheard. Previous FMoF consultations are also public in that options are provided for interested parties to submit comments most often electronically or through public hearings.

iii) Appropriate Forms and Methods of Consultations

The choice of the consultation method on this Investment Policy depends on a number of factors, including (a) the purpose of the consultation, (b) its subject matter, (c) the range of stakeholders, and (d) the scope and duration of the exercise. The methods selected must be appropriate for the intended stakeholders, articulated at a suitable technical and education level, and ensure that effective means are used to address the needs of hard-to-reach groups and others with special requirements. While it might involve a little more planning and administration, it is often useful to use more than one channel and method for engagement/consultations. Using a variety of methods can, in fact, help to include different groups in the process and widen access. Several methods that can be employed include (but are not limited to): (i) written submissions, (ii) public hearings or face-to-face meetings, (iii) focus group discussions with particular types of stakeholders, (iv) structured surveys (quantitative and/or qualitative, (v) web-based consultations and interactions (surveys, questionnaire, comments, social media tools and channels, including web forums, blogs, twitter), and (vi) advisory Groups and Expert Groups. In whatever option selected, the consultation locations for meetings/focus groups need to be accessible to relevant stakeholders, including those with special requirements.

iv) Documentation, Communication, and Dissemination of the Process

FMoFis aware that providing and sharing information is the foundation of an effective consultation process on this Policy. The Ministry will apply this principle to the process, the various consultation events, and the results and outcome of the consultations. All information on consultations would therefore be available on the relevant website and in the Department of Investment at the Ministry or other appropriate information centers. In addition, the Ministry knows that good practice suggests that: background documents and summaries of input received (without attribution) would be made public, while summaries and participant lists are made public with the consent of the stakeholders concerned.

Background materials on the Policy provide information on the subject matter of the consultation and allow stakeholders to reach an informed opinion. Such materials could include: (a) documents to initiate discussion, (b) a questionnaire with guiding questions, (c) overview papers introducing and describing the consultation subject, (d) any related technical briefs/studies, (e) Frequently Asked Questions on Nigeria Investment Policy, (f) links to general information about the consultation subject and related issues, (g) list of consultation meetings, (h) summaries of previous consultation meetings and participants lists, (i) feedback summary reports, and (j) management responses.

Appropriate ways to publicize consultations about the Policy would be considered and implemented so that stakeholders can take advantage of the full consultation period to prepare considered responses. A notification period of 4 weeks normally suffices; however, the advance notice depends on the complexity and the scope of the topic to be discussed. Adequate notice of consultation meetings should be given to stakeholders. Invitations to attend consultation events should be issued at least 2-3 weeks before the consultation meeting. Longer notice is needed for complex consultations. A meeting agenda should be distributed ahead of the meeting together with relevant background materials to help stakeholder prepare their input.

In addition, careful consideration will be given on how to reach stakeholders and access views from relevant sectors of the economy. While many interested parties can usually be contacted directly, there will often be other interested parties who can only be reached through intermediary or their association bodies. All participating stakeholders will be informed about the proposed methods of documenting consultations as well as new meetings scheduled, new materials made available (including meeting minutes and participant lists), or any other new developments relevant to the consultation. FMoF, where appropriate could use specialist media or events to help promote the consultation exercises among interested groups.

(v) Accountable Feedback Management both to the Stakeholders and Input into Decision-Making of FMoF on the Policy

FMITI would make meeting summary with the main discussion points available after every consultation meeting in a timely manner (no more than 10-15 days after the meeting), unless participants request confidentiality. In addition, responses to online questionnaires would also be summarized published on the dedicated consultation website. Also, feedback to consulted stakeholders on how their input was considered would be done to close the feedback loop; and to serve as the main accountability measure of consultations. The overall output from the engagement is finally conveyed to the National Finance Advisory Council of FMoF for further deliberations. Once decisions about the consultations are made by the Council, the results of the consultation process and final impact would be publicly disseminated on the consultation website by the FMoF and, as far as reasonably practicable, accessible to all who participated in the consultation process.

F. Monitoring and Evaluation Programs

FMoF should be guided in the implementation of this Policy by a few simplifying rules in evaluating its effectiveness through: (a) a set of explicitly formulated policy objectives, as the principal yardstick for measuring policy effectiveness with clear priorities, a time frame for achieving them, and the principal measures intended to support the objectives; (b) a detailed quantitative (and therefore complex) measurement of the effectiveness of individual measures in the Policy, that would focus principally on those measures that are most costly to implement, such as investment incentives; (c) assessment of progress in policy implementation and verification of the application of rules and regulations at all administrative levels, in which a review process would be put in place to ensure that policies are correctly implemented as a part of the assessment of policy effectiveness.

To this end, Monitoring and Evaluation (M&E) would be integrated into the entire life cycle of implementation of the Policy and beyond by identifying: (a) the problems in the course of implementation to be addressed and the root causes of those problems; (b) the logic of linking the proposed interventions with targeted outcomes; (c) assumptions and risks underlying the program logic; (d) the beneficiaries; and (e) the indicators, baselines, milestones, targets, and benchmarks to measure progress over the implementation life of the Policy.

While the monitoring component of the M&E identifies indicators, establishes performance milestones and targets, and details the data collection and reporting plan to track progress of the Policy against targets on a regular basis; the evaluation component identifies and describes the types of evaluations that will be conducted, the key evaluation questions and methodologies, and the data collection strategies that will be employed. However, since M&E activities over the Policy is unending so as to track sustainability and longer-term outcomes; provisions would be made even before the commencement of the implementation stages of this Policy.

M&E of the Policy will involve FMoF collaborating with the various relevant stakeholders in the above stakeholders' figure. This is because no matter how development specialists measure the technical outcomes of a project, the criteria which the beneficiaries of such projects would use to evaluate it from their own perspectives may differ and to some extent determine the sustainability of a project. In the implementation of the Policy, the stakeholders would be collaborating with the FMoF to assess the implementation process and recommend any required corrective action. Because this type of M&E would draw on corporate resources, know-how, and capacities of the stakeholders, it: (a) allows answers and questions to be based on local perceptions, strategies, and priorities; (b) recognizes the wisdom and knowledge of the stakeholders, and (c) ensures they are part of decision making.

Collaborative M&E of the Policy would help to fulfill the following benefits: help build capacity of private sector stakeholders to reflect, analyze, and take action; help develop lessons learned that can lead to corrective action; provide stakeholders and FMoF with information on the degree to which the project is meeting its objectives, and used resources, and help Department of Investment of FMoF to improve the program of implementation. In the course of such collaboration, M&E Plans of this Policy could be reviewed and revised to adjust for changes in the program's design and to incorporate lessons learned for improved performance monitoring and measurement. However, any such revision could be presented by the Director of Investment must be approved by the Minister FMoF and made consistent with the objectives of the Policy. That is, the M&E Plan may be modified or amended without amending the objectives of the Policy but kept up to date.

SECTION IX: RECOMMENDATIONS ON TRADE TAXATION AND CUSTOMS POLICY STUDY

A. Improving Nigeria's Position in ECOWAS and AfCFTA Economic Integrations.

From the study, it is clear that regional integration helps countries overcome divisions that impede the flow of goods, services, capital, people and ideas. While, divisions between countries created by geography, poor infrastructure and inefficient policies are an impediment to economic growth; economic integration like ECOWAS or AEC allow countries to overcome these costly divisions integrating goods, services and factors' markets, thus facilitating the flow of trade, capital, energy, people and ideas. This could be promoted through common physical and institutional infrastructure such as in: (i) trade, investment and domestic regulation; (ii) transport, ICT and energy infrastructure; (iii) macroeconomic and financial policy; and (iv) the provision of other common public goods (e.g. shared natural resources, security, education). Across the world, cooperation in the areas of economic integration have taken different institutional forms, with different levels of policy commitments and shared sovereignty, and has had different priorities in different world regions. Thus, making such cooperation to lead to substantial economic gains, that allow countries to: (a) improve market efficiency; (b) share the costs of public goods or large infrastructure projects; (c) decide policy cooperatively and have an anchor to reform; (d) have a building block for global integration; and (e) reap other non-economic benefits, such as peace and security.

However, as there are benefits in economic integration, there are equally risks that need to be identified and managed. This is because, countries may have different preferences on priorities for economic integration, depending on their connectivity gaps, economic geography, or preferences for sovereignty in specific areas. This makes the impact of economic integration on trade and investment flows, allocation of economic activity, growth, income distribution to be difficult to assessed with certainty. In fact, lack of adequate complementary policies and institutions may lead to inefficient outcomes in economic integration; while policy barriers at the border may offset the gains of transport infrastructure cooperation. Since economic integration may create winners and losers, notably within contracting parties; the following policies and institutions are needed to ensure that regionalism is inclusive and social, environmental, governance risks are managed; particularly under ECOWAS and AEC economic integration.

- In partnership with other Member States at ECOWAS and AfCFTA, Nigeria should embrace strategies to enhance the capacity of the border agencies so as to facilitate trade through the implementation of harmonized and automated systems for clearance; standards; and procedures, improve border infrastructure, professionalism in border officials, enforcement of client charters, harmonized working hours (24/7), accreditation of laboratories, and help desks to serve as inquiry points at border posts.
- Member States should have a clear time framework ***(roadmap)*** in terms of implementing ECOWAS and AfCFTA commitments; particularly in the various instruments under the free trade area, Customs Union and Common Market.
- ECOWAS States are currently implementing regional integration commitments under the Customs Union; and preparing the Member States for Common Market under the ECOWAS of people agenda.
- Furthermore, Member States should implement the various programs towards: (i) regional payments and settlement system (RPSS), like ECOWAS Payments and Settlement System (EPSS) as well as the Continental Payments and Settlement System (CPSS)like the Pan African Payments and Settlement System (PAPSS) to facilitate cross-border payments and trading; and (ii) expedite the abolition of Non-Tariff Barriers (NTBs), and limitations on the free movement of goods and persons.
- Notably Member States should resolve tariff barriers especially related to issues of Rules of Origin implement reforms to allow (i) National Identification (ID) Cards as formal travel documents, (ii) implement the One Network Area (ONA), (iii) facilitate joint regulatory collaboration at border posts, (iv) liberalize of air-transport, (v) facilitate mediation on political conflicts and tensions with emphasis on implementation of regional peace and security, and (vi) review the tax regime to provide for reduced taxes burden and procedures for MSMEs.
- ECOWAS Commission and the AfCFTA Secretariat should enhance the capacity of local businesses to engage and participate in the regional, continental, and global markets through tailor-made capacity building training.
- Furthermore, sensitization on diversity, equity, and inclusivity among stakeholders across the regional and continental Member States should be enhanced; while private-sector associations to create business support services such as formalization of business operations, access to loans; packaging; food processing, and sector-specific dialogues to address barriers to regional trade and investment be put in place
- Member States have to strengthen regional regulations for intellectual property rights to promote entrepreneurship and innovation in the region.
- Relevant agencies in the across Member States should increase security on trade routes to de-risk cross-border trade.

- Both ECOWAS Commission and AfCFTA Secretariat should build on existing business digital platforms to promote business interaction, showcase, and share opportunities; and such platforms should be used to enhance access to real-time trade information including to facilitate payments as well as provide relevant information about starting a business across Member States.
- Nigeria, in collaboration with other Member States should improve the ease of trading through simplified and coordinated legislations for business registrations, access to finance, contract enforcement, payment of taxes, access to infrastructure, transparency and accountability, and investment in human capital; and such reforms should be aligned with regional and continental commitments in line with the WTO Trade Facilitation Agreement.
- As part of the EPSS and PAPSS, Member States should harmonize the national banking systems in the region and the continent to allow local payments without passing through the SWIFT systems; using the RTGS instead of SWIFT.
- Member States should be ready to improve infrastructure access specifically water, energy, and internet by encouraging investment to support regional multimodal transport and modernize ports, roads, railways, and warehouse facilities necessary for the logistic value chain in the region and in the continent.
- Member States should be encouraged to invest in local value chains for vertical backward and forward integration of economic activities as well as to mitigate global shocks emanating from conflicts, pandemics, and inflation via strategic investments that would strengthen regional capacity.
- ECOWAS Commission and AfCFTA Secretariat should establish sector-specific Public–Private Dialogue (PPD) forums to resolve constraints to trade and investment in the region and the continent respectively.

B. Improving the Nigeria Customs Service Operational Activities in Economic Integrations

This report has analyzed the activities of NCS in ECOWAS and its expected role under AEC. However, the question is what should NCS do to promote better functional cooperation in light of the special roles of trade facilitation and revenue collecting agent for the government of Nigeria. As far as the role of NCS at the regional level is concerned, FTAs provide an important example. Like ECOWAS and AfCFTA, most FTAs contain a chapter which concerns customs procedures and trade facilitation.

The role of Nigeria Customs has four traditional functions: trade facilitation, trade supervision, statistics generation on trade, duty collection and anti-smuggling. Considering the multi-dimensional nature of customs' tasks, there has to be a great deal of interagency cooperation between customs authority in the country. In relation to the harmonization of customs procedures, the across Member States in ECOWAS, NCS has achieved close and effective cooperation on in-depth exchange of views on regional trade security and facilitation, IPR protection, law-enforcement cooperation and human resources development. This has not only contributed to the healthy growth of NCS (and the regional economy as a whole) but has also set a good example for customs cooperation in other parts of ECOWAS Member States. However, from this study the following recommendations are still very crucial:

- To avoid discrepancies between the records of the approving authority (FMoF) and the implementing government agency (NCS), incentives and waivers granted through NCS must be gazetted as stated in section 13 (3) of the CET Act which provides for: "An order made under subsection (1) of this section shall have effect from the date of its publication in the Gazette." In effect, any approval that is not gazetted should be illegal and not implementable.
- There should be regular harmonization of records of approved waivers by the FMoF with the implemented data with the NCS to ensure synergy and early discovery of discrepancies in the administration of waivers and concessions.
- There should be clear policy agenda to guide incentives and waiver granted by NCS based on need investment enhancement or revenue generation; for instance, if it is investment driven, tax must be lowered while the tax base is widened for increase in revenue.
- Introduction of sanction against fraudulent implementation of approved waiver, including irregularities and discrepancies in shipping document and NXP forms.
- There must be effective Monitoring and Evaluation (M&E) mechanism to track implementation; especially, in the management of industrial incentives to manufacturers and utilization of Export Expansion Grant (EEG).
- Loopholes in exemption letters must be addressed, while measures to identify the use for the item approved for waiver and the quantity to be imported with effective record of jacking by the NCS are put in place.
- There should be regular update of list of extant factories that qualify for customs incentives and waivers to eliminate industrial incentive fraud; so that companies that are no longer operational do not raise claims as extant operators.
- Enhance selection process for the EEG should be put in place for promoting non-oil exports; and redesigning the scheme to achieve the following: (i) grant export incentive

based on clearly defined criteria, including local value addition, employment generation and new investment to boost the economy; (ii) establish clearly defined accountability framework for the scheme; (iii) establish effective processes and controls to prevent irregularities; (iv) restructure the extant incentives to inject oxygen into the moribund industries; and (v) create specialized incentives for sectors identified as priority to champion industrial growth.

- A dedicated support is required for SMEs in consultation with relevant stakeholders to stimulate economic growth that creates wealth, generates employment, reduces poverty, and promotes overall impact on production.
- Apply customs incentives as carrot for returns; that is, incentives are not revenue loss but forgone resources to enhance future revenue base through foreign direct investment in a particular activity, manufacturing or export.
- There is need for capacity development of NCS in understanding the relevance of incentives as a policy strategy towards the overall development of the country.
- The Nigerian Export Promotion Council (NEPC) must be repositioned as a reliable institution to account for the implementation of the EEG in promoting non-oil sector for economic growth in Nigeria.
- There is need to establish a coordinating/monitoring team for trade tax and custom policy harmonization where relevant MDAs would review implementation of policy issues according to related guidelines.
- There is need for Inter-Agency cooperation and collaboration on trade tax and customs incentives through single window.
- There is need for a thorough overall review of customs incentives and waivers for sustainability reasons; with specific attention given to the sector where the country has comparative advantage in terms of its contribution to the GDP.
- Need to apply the use of modern technology in the administration of customs incentives to track the utilization and impact of the various incentives on the economy and check abuses despite stated conditions listed in the approval letters.
- Make trade mis-invoicing illegal- among the many constraints faced by customs agencies are that in many countries falsifying trade invoices is simply not illegal. Therefore, one of the most important steps countries can take is to adopt legislation that clearly prohibits trade mis-invoicing and to ensure the associated penalties are adequate.
- Strengthen the law enforcement capacities of NCS- by establishing or strengthening **Specialized Asset Forfeiture and Recovery Units** at the national level to effectively combat trade mis-invoicing, effectively monitor invoices and detect irregularities in

both export and import declarations, customs authorities require both a sufficient legal mandate and adequate resources to match.

- Strengthen customs oversight of free trade zones (FTZs)-for FTZs in the country, Nigeria should consider adopting the WCO's voluntary **SAFE Framework of Standards to Secure and Facilitate Global Trade in FTZs**, which includes a set of global recommendations designed to strengthen the effectiveness of customs controls.
- Strengthen the National Trade Facilitation Committee (NTFC)-sufficient financing for this body has been lacking in Nigeria
- Expand information-sharing between importing and exporting countries-the WCO and the United Nations Office on Drugs and Crime (UNODC) have established a joint container control program (CCP), which establishes inter-agency units within countries for exchanging information with their counterparts in other countries, allowing customs agencies and port authorities to share information about high-risk containers and verify their identification numbers, etc.

In addition to the steps listed above, the WCO also recommends that its members do the following (i) ensure that customs authorities have sufficient mandate to tackle not only under-invoiced imports, but all four channels of trade mis-invoicing; (ii) allow customs agencies to access foreign exchange transactions databases, and equip customs agencies with a mandate to examine whether 'financial transactions' between traders correspond to the 'value of traded goods'; (iii) promote a shared sense of responsibility between the private sector and customs administrations and effective information exchange between them to tackle IFFs/TM; (iv) exchange information on the beneficial ownership of traders with tax authorities; and (v) exchange customs records on the trade and financial records of the matched trade

C. Improving the Nigeria Trade Tax in Economic Integrations

Like in many other developing countries tax incentives in Nigeria has been very popular over the years; but very controversial of recent. The controversy is about whether their overall benefits outweigh the costs. The challenge is to understand the conditions and the policy design features that determine whether tax incentives in Nigeria are likely to deliver substantial and sustainable net benefits in a particular context. It is understood that the fundamental purpose of taxation is to raise revenue effectively, through measures that suit each country's circumstances and administrative capacity. In fulfilling the revenue function, a well-designed tax system should be efficient in minimizing the distortionary impact on resource allocation, and equitable in its impact on different groups in society.

Basis for tax incentives includes, among others: (i) enhance returns on investment; (ii) they may be justified by positive externalities stemming from investments; (iii) they are relatively easy to target and fine tune; (iv) they signal openness to private investment; (v) they are useful in a world of capital mobility; (vi) they are necessary for responding to tax competition from other jurisdictions; and (vii) they compensate for other deficiencies in the investment climate.

However, in Nigeria, and in many other countries, those against tax incentives argue that: (a) the actual revenue cost can be high if the investments would have been viable anyway; the incentives are offset by source-country tax laws; or tax-favored investors take business away from taxable producers; (b) abusive tax avoidance schemes, made possible by tax preferences, further erode the revenue base; (c) tax incentives also divert administrative resources from revenue collection; (c) such revenue losses require painful fiscal adjustments in the form of higher taxes on other entities, cuts in expenditure, or greater dependence on other costly forms of financing; (d) tax differentials can introduce serious economic distortions that reduce efficiency and productivity; (e) tax preferences create inequities by favoring some taxpayers over others, thus undermining general compliance; (f) as a development tool, tax incentives score poorly in terms of transparency and accountability; (g) the cash value of tax incentives stimulates political manipulation and corrupt practices; (h) alternative instruments for promoting investment can have much more favorable and lasting effects on productivity, growth, and development; and (i) international experience shows that tax incentives most often do not deliver favorable results.

While the ultimate goal of economic integration is the long-term high economic growth for Member States; tax revenues are critical to achieving this objective, given the high dependence of developing, like Nigeria, on it. This study has pointed out that the prevalence of differential tax regime among integrating economies may produce negative consequences towards the achievement of such regional pact. For this reason, among others, the following recommendations pertaining to the structure of incentives, transparency, capacity building, and harmful tax competition in ECOWAS and AfCFTA economic integrations are important:

- ECOWAS should modify its definition of “tax incentives” to encompass both general and selective incentives to cover both direct and indirect tax measures that affect trade.
- Member States should agree to review the coherence of their tax incentive programs to eliminate inconsistency between goals, criteria, and instruments. For instance, while promoting growth and development through tax measures that are designed to stimulate investments, care should be taken so as not to support inefficient and uncompetitive activities.

- State Parties in both ECOWAS and AfCFTA should agree to develop the analytical capacity, organizational arrangements, and institutional procedures needed to conduct a professional review of existing and proposed tax incentive measures and other tax policies so as to ensure that policy decisions are based on sound information about their likely impact.
- Tax incentive programs in Nigeria should be compatible with prudent revenue management of the government; by ensuring that cautious approach should be applied to offering incentives that create substantial revenue risks directly or indirectly
- To ensure proper consideration of revenue objectives, the FMoF must be centrally involved in the formulation of tax incentive policies and its implementation.
- As our stock taking analysis revealed, the advantages and disadvantages of each tax instrument must be judged in light of local conditions, subject to systematic policy analysis to support well informed decisions because: (i) the overall, the soundest tax incentive is to establish standard tax rates that are fair and moderate; (ii) relieving exporters of indirect tax on inputs should be a top priority, with due regard to the need for effective procedures to prevent abuse of the remissions; (iii) the most cost-effective tax incentives is the initial capital allowance (ICA), while tax holidays entailing a full exemption are less likely to be cost-effective because the revenue forgone tends to be large relative to the improvement in incentives as they strongly favor transitory rather than sustainable investments, and create glaring opportunities for aggressive tax avoidance; (iv) the worst form of tax incentive is the imposition of high protective tariffs on competing imports, as they tend to stimulate investment for the domestic market, but it usually turns out to have low productivity and poor development potential; (v) due to serious revenue constraints, selective tax breaks should narrowly focus on activities that are likely to deliver an especially high payoff in terms of policy goals, and which would not be undertaken without special incentives; (vi) possibly avoid zero tax rates, because vast majority of viable investment projects do not hinge on getting a total exemption from tax; (vii) eliminating import duties on raw materials and intermediate goods is a poor way to stimulate investment, because the measure has a high revenue forgone and little effect on investment for the domestic market since indirect taxes are usually passed along to consumers; (viii) location-dependent investments that are fundamentally viable, especially resource-based projects that cannot readily move elsewhere, should no longer receive special tax preferences; and (ix) a low-rate alternative minimum tax can ensure that every company contributes at least minimally to the cost of basic public services.
- In designing tax incentive programs, ECOWAS Member States should place a high priority on their administrative implications; while countries with weak tax

administration should shun high-value tax breaks that invite aggressive tax planning and abusive tax avoidance.

- Use of automatic versus discretionary incentives should be cautioned, because while in a country with highly disciplined administrative systems, discretionary programs can have advantages in targeting incentives to enhance their effectiveness and impact; but in Nigeria, discretion has created overtime severe problems by increasing administrative costs, politicizing technical decisions, and creating avenues for corrupt practices.
- Nigeria and ECOWAS Member States should embrace fiscal transparency by being committed to: (i) transparent tax incentive systems, procedures and criteria; (ii) public disclosure of discretionary tax incentives granted; (iii) transparent cost control and fiscal impact; and (iv) effective monitoring mechanisms.
- There should be implementation of appropriate capacity building programs for tax administrators of Member States to improve the analysis of tax incentive policies, as well as educational programs to help government officials and stakeholders better understand the economic and financial impact of investment tax incentives.
- ECOWAS Tax Administrators should develop a kit of analytical tools that can be used by Member States in analyzing the effectiveness and impact of their tax incentive programs, and by the Community in comparing tax incentives programs within and outside of the region; and such tool kit should include (i) a model for evaluating the marginal effective tax rates; (ii) information systems for monitoring average effective tax rates; (iii) guidelines for monitoring tax expenditures; and (iv) guidelines for screening applicants for selective discretionary incentives.
- Member States should consider the following steps toward deeper cooperation: (i) negotiate bilateral or multilateral protocols or treaties for the effective exchange of information, including coordination on tax audits and investigation of tax crimes; (ii) establish a periodic joint review of existing tax incentive programs to evaluate compliance with any ECOWAS agreement on tax cooperation; (iii) participate proactively in international forums dealing with harmful tax practices; (iv) jointly support the concept of an International Tax Organization with a mandate to evaluate and facilitate international responses to harmful tax practices; (v) develop standards to establish clear and effective legal provisions in each country on transfer pricing, thin capitalization, and controlled foreign entities; (vi) jointly pursue defensive actions to minimize abusive tax avoidance schemes using cross-border tax differentials; (vii) initiate programs for regional fiscal transfers, to help poorer Member States pursue more constructive approaches to improving their investment climate, in lieu of aggressive tax concessions; (viii) any effective regional agreement to mitigate the

harmful effects of tax competition requires a mechanism for resolving disputes and enforcing remedial actions in response to violations.

- ❖ There is need for Avoidance of Double Taxation Agreement (ADTA) among Member States
- ❖ ECOWAS, West African Tax Administration Forum (WATAF), African Tax Administration Forum (ATAF) should synergize to provide a platform for States Parties towards effective tax coordination
- ❖ Nigeria and other Member States should make maximum use of the various multilateral tax treaties of which they are parties, including the Multilateral Convention on Mutual Administrative Assistance on Tax Matters to enrich their tax administration.
- ❖ The contents of operational ADTAs should be implemented towards positive effects on the Nigerian economy, especially in the areas of prevention of tax evasion, expansion of capital market and FDI, employment generation, technology transfer, Corporate Social Responsibility (CSR), improvement in management skills, and local content development.
- ❖ ECOWAS and AfCFTA member states should enter into multilateral taxation agreement or protocol as adjunct to their establishment treaties.

D. Improving Nigeria's Revenue Position in ECOWAS and AfCFTA Economic Integrations.

From the study, Nigeria entered into economic integration of ECOWAS and AEC (AfCFTA) as one of the policy options available to her in pursuing their strategy for economic development. She expects that their potential benefits would in the medium to long term outweigh the costs. Particularly when viewed from an export-oriented strategy perspective of the country. It is understood that economic integration benefits the member countries by ensuring access to the markets of their partners, lessening risk and uncertainty as regards the effects of trade liberalization on domestic industry, easing the task of policy coordination, and reducing the cost of infant industry protection. However, the integration may also involve paying higher prices for regional imports, establishing monopoly positions in particular industries, drawing away resources from more productive uses, and neglecting other policy options; and in fact, revenue forgone duty to removal of customs duties, hitherto coming from member states. Therefore, balance of benefits and costs of economic integration in a particular case (ECOWAS or AfCFTA) will depend on market size, resource endowment, geographical location, and access to developed country markets, as well as on policies followed.

It is assumed that any economic integration that represents a movement towards free trade should be beneficial and welfare enhancing, because free trade maximizes welfare. Based on this assumption, both ECOWAS and AfCFTA are expected to reduce tariffs and is therefore a movement towards free trade for the benefits of welfare of the people. However, this belief was challenged by Viner (1950) when he showed that the net impact of a regional trade agreement on welfare is uncertain and depends on a number of economic circumstances. In particular, it only when the benefits of trade creation exceed the costs of trade diversion that there would be a net welfare gain in the implementation of either ECOWAS or AfCFTA; and verse versa. It is possible for the tax revenue of member states to increase due to increased volume of trade of goods and services within the region as a result of increased market size, economies of scale, and free movement of factors of production across member states and industrialization (trade creation effect); but depending on the elasticity of supply and demand of the commodities traded across the continent.

As State Parties abolish obstacles to trade and investment, it becomes more efficient for producers to enter other Member States markets where prices may be naturally higher, hence facilitating consumer choice and increasing competition among producers. That is, both ECOWAS and AfCFTA, can change the prices of imports across State Parties as a result of tariff reduction; thus, changing the patterns of demand, and consequently increasing tax revenue realized due to increase in tradables of goods and services across Member States.

On the other hand, the implementation of the economic integrations by Nigeria may reduce the tax revenues of the country since economic integration agreements usually come with the requirements of abolishing all tariffs on goods and services produced by Member States. For instance, trade diversion occurs when Member States reduce or remove their purchases away from a more efficient supplier outside the ECOWAS or Africa regions, towards a less efficient supplier within the continent. As a result, supply will come from a more efficient producers within the region or continent of products, even at higher prices, with no import duties charged (revenue forgone). This leads to reduction in government revenue resulting from the customs duties forgone from the third country and Member States in the integration; and this can affect a governments' ability to provide essential public services, and this must be factored in as well. By design, trade and investment agreements significantly decrease the amount of tariff revenue a member country can collect, a shift that is not always recaptured by other forms of taxation. If not designed properly and coupled with parallel policies, trade and investment treaties can jeopardize the ability of a country to mobilize domestic resources for development. Trade and investment liberalization has been associated with not only declines in tariff revenue, but also total tax revenue in some developing countries, as well as an increase in external debt

Why has taxation and customs established itself recently as a priority issue in both regional and international debate? The analysis in **Section I** of this report shows that the Nigeria's fiscal landscape has been nose-diving over the years. One of the fundamental arguments is that the country has considerably liberalized regional international trade. Taxes on exports (if any) have been dramatically decreased and often eliminated, while taxes on imports have decreased substantially and may be reduced further. With ECOWAS and AfCFTA, the country is under increasing pressure to further liberalize its markets. In a context of high reliance on trade revenues, this could be damaging, if domestic revenues do not replace losses from trade taxes. This implies that Nigeria is likely to have both positive and negative effects on their tax revenue and it is the net impact that will determine whether this is a welfare gain or loss resulting from the regional continental integration. Therefore, whether or not ECOWAS and AfCFTA trade blocs would be welfare and revenue increasing on Nigeria would therefore depends upon the relative magnitudes of trade creation and trade diversion.

If trade and investment liberalization lead to the more efficient allocation of goods and services, the economy would be expected to grow more and thus, if tax systems are in place outside of tariffs, then tax revenue will increase. In addition, if the country sees that it will incur large tariff losses then she needs to act quickly so as to replace those losses through domestic taxation. However, there is a number of instances where the country may have difficulty in replacing lost tariff revenue however because of the following:

- Presence of large informal economy which by definition are difficult for the country to track and tax;
- Existence of tax competition among her neighbors or competitors with similar goods, who may not equally raise taxes, all other things being equal, may compel firms move to those other countries to avoid the tax;
- Internal pressure from stronger firms that will be the new engines of growth may not want to pay higher taxes and could apply political pressure to halt such initiatives; and
- Some provisions in other agreements domesticated by the country may make it more difficult to place new taxes on foreign capital; based on the principle of pacta sunt servanda.

Tax and customs revenues are critical to sustainable development in Nigeria, since they constitute the resources for poverty reduction and delivering public services, in addition to increasing state capacity, accountability, and responsiveness to their citizens' welfare. Section

IV of this report already analyzed the solution to these problems of revenue forgone under ECOWAS and AfCFTA economic integrations.

Section X: Conclusion

The expansion in the role of the Nigeria government over the years had important implications for the functions and organization of the FMof. **First,** there was the sheer scale of the increase in the size of public expenditure and taxation which required both an expansion of the role (and size) of budget and accounting/treasury offices as well as the development of new techniques of policy analysis, and the exercise of stronger control over public spending and off-budget transactions such as the newly established social security funds. **Second,** there was a large increase in the breadth and volume of state activities in which the FMof has been involved, in particular the area of welfare policies, industrial policies, and policies regarding state enterprises (which also hardly existed at the turn of 20th century in most countries). This is why government is of the view that FMof would have to take responsibility in activities of the state across the board, since all such activities have fiscal implications of one sort or another which the finance ministry cannot afford to ignore. This is the basis for making the FMof the Coordinating Ministry under the present administration. The powers of the FMof to fulfill these functions is a notion that is hard to define or measure. But such powers can only come from its technical mastery or superior knowledge on economic and financial issues, as well as the detailed operations and spending programs of other Ministries, Departments and Agencies (MDAs) of the Nigeria government.

A. Functions of FMof as Coordinating Ministry

As a coordinating Ministry, FMof would be responsible for performing a wide range of fiscal and financial functions, some of which were hitherto being carried out by other governmental agencies. These functions could be broadly divided as follows:

First, are policy functions such as setting fiscal policy rules or targets, managing fiscal risks, developing a debt strategy, participating with Ministry of Budget and National Planning in formulating the annual budget and the medium-term budget framework, and providing advice on alternative tax policy options. Such functions are now at the core of FMof work, and would occupy a substantial part of the time of its senior officials.

Second, are regulatory functions, which are traditionally carried out by the FMof overtime with some MDAs. These functions (sometimes referred to supervisory functions) fall into three main categories: (i) ensuring that the legal framework for budgeting and public finance is respected and enforced by the rest of the MDAs that are responsible for implementing them;

(ii) complement the Central Bank of Nigeria (CBN) in the supervision of banks and other financial institutions (e.g., banking regulation and supervision agencies, the stock exchange, insurance companies and pension funds); and (iii) supervision of specific economic sectors (e.g., electricity, telecommunications, water) to ensure effective competition, prevent the formation of cartels, and protect the interests of consumers. These functions are often shared with, or carried out by, the independent regulatory MDAs.

Third, are transactional (or operational) functions such as the processing of: (i) budgetary payments, (ii) the exercise of internal control, (iii) the issuing of government securities, and the (iv) collection of taxes and other government revenues. It is expected that most of these transactional functions should be automated in a "***Single Window"*** platform, and carried out in collaboration with established MDAs like the Nigeria Customs Service (NCS); Federal Inland Revenue Service (FIRS); and others.

Finally, some functions would necessarily combine both a policy and a transactional element; such as, the government's debt strategy is implemented through operations in the Open Market Operations (OMO), like Treasury Bill at the CBN and bond markets by a Debt Management Office (DMO) within the FMoF, or by other MDAs. It must be noted that the various debt management activities either at the CBN or the DMO are still transactional activities on behalf of the FMoF.

B. Principles for Effective Coordination of the Economy by the FMoF

In the course of this study, there are no clear distinction between these broad categories of finance functions of the FMoF. Efficient decision-making of the Ministry would henceforth require adequate coordination and communication between MDAs and units working on (i) policy, (ii) regulatory and (iii) transactional functions under *Taxonomy of Federal Ministry Finance Functions* in **Table 72** with respect to the following principles:

Principle 1: Unitary Function
There should be an only FMoF that is responsible for performing central finance functions of the Federal government of Nigeria. Where for political or institutional reasons it is necessary to divide such functions among the MDAs, arrangements should be put in place to ensure effective coordination and cooperation among them.

Principle 2: Flexible Bureaucracy

FMoF should develop a flexible bureaucratic structure that permits: (i) efficient decision-making cascading through different levels of its MDAs and other Ministries as well as their MDAs; (ii) effective and timely communications and coordination both vertically and horizontally within the various stakeholders and organizations in the economy; (iii) effective and timely communications and coordination with other parts of the government, as well as with external stakeholders.

Table 72: Taxonomy of Federal Ministry Finance Functions

Policy Functions	Regulatory Functions	Transactional Functions
1. Fiscal Policy		
Fiscal policy analysis and formulation, fiscal rules	Monitoring compliance with rules, spending ceilings and performance targets	Macro-fiscal forecasting
Debt management strategy	Regulation of debt markets	Debt issuance and registry functions
Policy on taxation and other government revenues	Enforcement of tax laws	Collection of taxes, customs / excise duties, and other revenues
Policy on and management of fiscal risks, guarantees, etc.	Monitoring implementation of risk management policies	Issuance of guarantees
2. Budget Management		
Formulation of the medium-term budget framework / annual budget	Coordination of budget cycle	Estimation of budget costings
Public investment strategy and planning, policies and guidelines	Monitoring policy implementation, gateway reviews	Execution of policies and guidelines, including investment appraisal
Budget execution – policies, guidelines, instructions	Monitoring/oversight of budget execution, compliance with regulations	Execution of budget by spending agencies

Cash forecasting/liquidity management /TSA	Monitoring through Cash Management Committee	TSA managed by central bank under government supervision
Policies on public procurement and PPPs	Monitoring of policy implementation, gateway reviews	Execution of procurement contracts and PPPs
3. Accounting and Reporting Policies, Internal Control and Audit		
Development of accounting policies, rules and guidelines	Coordination/monitoring compliance with accounting standards	Compilation of financial reports
Application of international standards (IPSAS, GFS)	Provision of internationally comparable fiscal data and statistics	Standardized recording of transactions, assets, and liabilities of public sector
Policies on internal control and internal audit	Monitoring compliance with standards	Execution of internal controls and internal audit
4. Other Central Finance Functions		
Policies on intergovernmental fiscal relations	Monitoring compliance with local government budget / finance policies and laws	Execution of local government budget / finance policies and laws
Management of government assets and liabilities	Monitoring implementation of management framework	Provision of data by spending agencies, etc.
Policies on the financial management of SOEs	Monitoring implementation of policy framework	Provision of data by line ministries and SOEs
Relations with international finance organizations	Monitoring compliance with international obligations and standards	Processing of international financial transactions

Source. Adapted from Allen and Krause (2013).

Principle 3: Establish Agencies to Manage Specialized Functions

Specialized finance functions of FMof such as revenue collection and debt management should left in the hands of existing MDAs, while their operations and performance are monitored closely by the ministry. A precondition for establishing these MDAs is that appropriate controls be put in place to ensure that the financial management and performance of such MDAs (internal controls, accounting and reporting, procurement, audit) are robust enough. Senior management of the FMoF should have access to regular reports that monitor the MDAs' operations and performance, enabling them to respond immediately to any issues that require the ministry's attention.

Principle 4: Devolution of Transactional Functions

FMoF should maintain the existing MDAs (NCS and FIRS) for routine transactional functions such as collection and payment processing, internal control and procurement. As such devolution occurs, the finance ministry's role should switch to monitoring these MDAs' operations through a "***Single Window***" Platform and taking action where necessary to deal with unforeseen developments. However, the Ministry should not devolve functions to them until it is satisfied that those MDAs concerned have sufficient technical capacity to undertake expected tasks as shown in **Table 72**. Perhaps, the Ministry may initially want to exercise control over the appointment of financial managers and accountants to positions in those MDAs.

Principle 5: FMof to Focus on Core Policy and Regulatory Functions

The corollary of Principles 3 and 4 is that FMof should **build capability** in the policy areas that are central to its various activities in the Mandate (in Table 72). Therefore, policy functions that are not related to public finance should generally be dealt with by other MDAs. Communications and coordination between the Ministry and the various specialized agencies under it should be reinforced to ensure that the staff engaged in operational tasks in those institutions can inform the policy decision-making process, and vice versa.

Principle 6: Setting and Shaping Policy Agenda Across the Government

FMof should build knowledge and skills to analyze cross-cutting policy issues relating to all sectors of the Nigerian economy, e.g., agriculture, trade, education, energy, environment, health, etc. This is paramount for the Ministry to provide well-informed advice, as ***Coordinating Centre*** to the cabinet on the cost and benefits of new policy proposals of the government, and the allocation of budget resources to the respective MDAs across the country. In this way, FMof should play the key role in agenda setting and shaping policy across the government of the country.

Principle 7: Consolidate new Functions with Existing Departments
The Ministry should refrain from creating specific structures outside existing MDAs under it in the country to manage emerging issues. To this end new policy functions should be harmonized with the existing MDAs under its existing framework so as to maximize synergies and communication within the entire Ministry.

C. Further Findings from the Above and the Study

We equally discovered the fragmentation of fiscal policy functions across the MDAs rather than retaining or consolidating them. Many of these MDAs lack appropriate technical capacity for performance as well inadequate training opportunities to upgrade their competences. In particular, there is dearth of capacity in areas such as in: (i) macro-fiscal forecasting, (ii) fiscal risk analysis, (iii) debt strategy, (iv) policy related to taxes and other government revenues, (v) local government finance, (vi) the management of state enterprises, (vii) economic integration, (viii) tax and illicit financing (like, transfer pricing, trade mis-invoicing and corruption related activities of transnational corporations-TNCs) or (ix) public-private partnerships.

The Ministry and its related MDAs have a multiplicity of structures and administrative layers, resulting from the progressive addition of new functions, without consideration being given to the need for prior reorganization and relevant capacity building. In fact, some of the structures usually enjoy some autonomy from existing core departments and units of the ministry, and often report directly President (e.g FIRS and NCS) thus increasing their relative political influence. Such organizational segmentation makes it more difficult to integrate functions and balance interests. It also tends to lengthen and complicate business processes, and increase inefficiencies and staffing costs.

In addition, limited resources are devoted to provide common services to core departments and units of the Ministry and its MDAs, such as training, and effective IT systems. The provision of training to upgrade staff expertise, particularly for policy functions that require more analytical skills, was discovered to be insufficient. As a consequence, human resource management systems at the Ministry and the related MDAs is not being sufficiently robust and flexible to support a major reorganization of the Ministry, or to allow for an increase in staff mobility; as well as cope with emerging realities in the competing global space on regional and multilateral trade. In addition, the internal operations of the Ministry and its MDAs are characterized by highly compartmentalized departments and inadequate mechanisms to transfer information across the entire spectrum of areas covered by the FMof in the economy. Many of the MDAs often function as organizational silos within which both horizontal and vertical communications within the entire Ministry tend to be weak; and their IT systems are not fully integrated, disrupting the flow of information on budget execution, and hindering reliable financial reporting.

The resulting weak communications, which do result in breakdowns in the decision-making process and a fragmented approach to implementing certain important tasks, to the detriment of the entire Ministry's overall efficiency. Also, the respective role of the political and technical levels is also often blurred. As a result, top management of the Ministry is overwhelmed by technical decisions and unable to focus on strategic prioritization, while departments are stripped of their decision-making responsibilities. In addition, genuine coordination requires a concrete change in individual responsibilities and incentives, and not just organizational "solutions," in order to empower line managers at the Ministry and the relevant MDAs. FMof is mandated to produce various outputs such as economic and fiscal forecasts, budget analysis and projections, or financial statements that are critical in monitoring Nigeria's financial performance. These outputs should be based on a large quantity of data, produced by the Ministry itself as well as by the National Bureau of Statistics (NBS) or by other public institutions or private groups. Therefore, organizational arrangements within the FMof is not the sole source of poor performance; lack of adequate data, other factors such as the design and implementation of business processes, or staffing levels, qualifications and skills, play an important role as well. Reorganizing departments within the Ministry may be counterproductive if weaknesses originate from inadequate processes or weak capabilities and inadequate statistics for planning. Improvements in performance may require an overhaul of these business processes and organizational culture, and not only a change in the organizational chart. Therefore, restructuring Ministry is not an isolated exercise, but should be conducted in parallel to other reforms in financial management, and the introduction of new ICT systems and data management. Inefficiencies and bottlenecks in the organization of the Ministry, shortages of necessary skills, lack of clarity in decision-making, and weak and uncoordinated activities of the relevant MDAs can derail even a reform strategy. The sequencing of change is therefore a critical factor.

Lastly, the ultimate objective of reorganizing FMof into performing its coordination role is to increase its ability to perform functions efficiently and effectively across the country. However, difficulties are likely to arise in measuring capacity and capability in practice. For example, civil servants may provide first rate advice on economic fiscal and economic policy issues but the advice may be disregarded or overturned for political reasons. The fact that policy advice prepared by officials of the Ministry is submitted to Ministers on a confidential basis, and is not readily available for external scrutiny, also makes it difficult to conduct an objective and balanced assessment of the relevance, timeliness and analytical quality of such advice, and hence of the Ministry's capability. These difficulties notwithstanding, Nigeria government could put in place quantitative framework for measuring the capability of the Ministry

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