

Chapter One

General Introduction

1.1 Background to the Study

The African Continental Free Trade Agreement (AfCFTA) stands as a monumental initiative aimed at fostering economic integration and growth across the African continent. Since its inception, the AfCFTA has garnered significant attention as a potential catalyst for transforming intra-African trade dynamics and enhancing the continent's global competitiveness. The African Continental Free Trade Area is the first free trade agreement aiming at creating a single market for goods and services in Africa¹. This agreement would increase Nigeria's access to more affordable goods and services from other African countries². The AfCFTA is expected to reduce 90% of tariffs and includes policies aimed at eliminating unnecessary barriers, such as delays in customs³. Nigeria, as Africa's most populous nation and largest economy, occupies a pivotal position within this evolving economic landscape.

Simultaneously, Nigeria has long pursued bilateral agreements with various countries to facilitate trade and investment flows, aiming to capitalize on mutual benefits and address specific economic objectives. The intersection of Nigeria's participation in the AfCFTA and its bilateral agreements presents a compelling arena for legal analysis, shedding light on the intricate frameworks shaping Nigeria's trade relations at both regional and international levels. Nigeria has bilateral investment agreements with about 31 countries including but not limited to; Morocco, Singapore, Russia, Kuwait, South Africa, Germany, France, etc⁴. However, only 15 of these BTAs are in force. The 15 deals in force are with France, the United Kingdom,

¹ Maliszewska Maryla, Dominique van der Mensbrugge, Maria Filipa Seara Pereira, Israel Osorio Rodarte and Michele Ruta. (2020) "African Continental Free Trade Area: Economic and Distributional Effects."

² Ijaiya T. A., G. T. Ijaiya and Mukaila Adebisi Ijaiya. (2021) "African continental free trade area (AFCFTA) and poverty reduction in Nigeria: an exploration of the possibilities."

³ Vhumbunu Clayton Hazvinei and Joseph Rukema Rudigi. (2021) Eliminating Non-tariff Barriers in the African Continental Free Trade Area: Lessons and Experiences from African Regional Economic Communities. "Journal of African Foreign Affairs" 8, no. 2: 129.

⁴ Trade agreements (2022)

Taiwan Province of China, Korea, Romania, Germany, South Africa, Italy, Switzerland, China, Sweden, Spain Finland, Morocco and the United States. In the year 2000, Nigeria and the U.S.A. signed a Trade and Investment Framework Agreement (TIFA). This agreement provides for dialogue on improving and strengthening trade and investment opportunities between the 2 countries. The country also has double tax treaties with 13 countries and is a signatory to 21 investment-related instruments⁵.

Nigeria signed the African Continental Free Trade Area Agreement (AfCFTA) in July 2019 and ratified the agreement in December 2020. When fully implemented, the AfCFTA will require member countries to remove tariffs from 90% of goods, allowing free access to commodities, goods, and services across the African continent.

The evolution of AfCFTA can be traced to the creation of the Organisation of African Unity (OAU) on May 25, 1963, in Addis Ababa, Ethiopia, to fight against excessive Balkanization of the continent. This was followed by the creation of the East African Community by Kenya, Uganda and Tanzania in 1967. These initial steps were followed by the creation of more regional organisations from 1970 onwards, such as the Permanent Inter-State Committee for Drought Control in the Sahel (CILSS), the Mano River Union (MRU), the Customs Union of Central African States (UDAC), and the African and Malagasy Union (AMU), all in 1973. From 1975, a number of other regional bodies saw the light of day, such as ECOWAS, SADC, COMESA aimed at creating larger, more viable economies and markets.⁶

The third step involved the transformation of the Organisation for African Unity (OAU) into the African Union (AU), in 2000, at Durban, South Africa. This evolution, although considered utopian in certain international circles, became necessary as the OAU had become increasingly redundant given its principal goal had been the decolonization of the Continent,

⁵ Nigeria - Country Commercial Guide(2023)

⁶ Ibid, no 5

which was achieved with the independence of Namibia in 1990, the end of apartheid in South Africa in 1991, and the pathway to autonomy for South Sudan in 2011.

The fourth initiative was the creation of the New Partnership for Africa's Development (NEPAD) in July 2001 in Lusaka, Zambia. In spite of a tentative start, this project - a fusion of the Millennium Partnership for African Recovery (MAP) and Project Omega - benefitted from the special interest shown by many big powers, being given a platform in Canada in June 2002 and becoming the subject of many global publications. However, despite the enthusiasm, NEPAD has been unable to achieve its objectives, thanks to the financial crisis of 2008-2009 which brought down banks around the world and made it very hard to mobilise the money needed to get NEPAD's activities underway. NEPAD⁷ is now the African Union's Development Agency (AUDA), its creation having been approved in July 2018 at the AU summit in Nouakchott, Mauritania. This decision was adopted at the January 2019 Summit in Addis Ababa, Ethiopia, with a new set of objectives which centered on:

- a. Human capital development (skills, youth, employment and empowerment of women)
- b. Industrialisation, Science, Technology & Innovation
- c. Regional Integration
- d. Trade and infrastructure (energy, water, ICT, and transport)
- e. Governance of natural resources
- f. Food security

The African Continental Free Trade Area (AfCFTA) is a major achievement in economic integration of the African continent⁸. The purpose of the African Continental Free Trade Area is to establish a single market for goods and services⁹, facilitate free movement of people and

⁷ Ibid, no 4

⁸ Wapmuk Sharkdam and Jamaludden Muhammed Ali. (2022) The African Continental Free Trade Area (AfCFTA) and Regional Economic Integration: Prospects and Challenges. "Zamfara Journal of Politics and Development" 3, no. 1: 15-15.

⁹ Simo Regis Y. (2020) Trade in Services in the African Continental Free Trade Area: Prospects, Challenges and WTO Compatibility. "Journal of International Economic Law" 23, no. 1: 65-95.

foster economic development in Africa, based on the Abuja Agreement of 1991 which was launched in March 2018. As a major player on the continent, Nigeria has engaged in bilateral agreements with an emphasis on dealing with complex international trade issues and contributing to the success of the AfCFTA by taking advantage of globalization as well as increasing importance of regional economic blocs¹⁰. Despite the possible benefits, there are concerns about a rise in foreign competition and dumping of inferior goods that have resulted in an uneasy feeling among small and medium enterprises in Nigeria¹¹. Moreover, the reduction of tariffs on goods and services in Nigeria is likely to affect households and businesses especially during periods of pandemics and recession.

Nigeria's participation in the African Continental Free Trade Area (AfCFTA) and its pursuit of bilateral agreements with various countries pose significant legal and policy challenges. Despite the potential benefits of regional integration and bilateral trade relations, there exists a complex landscape of legal frameworks, provisions, and obligations that require careful analysis and comparison. The problem arises from the need to understand and navigate the legal intricacies surrounding Nigeria's engagement with the AfCFTA and its bilateral agreements. Questions arise regarding the compatibility of Nigeria's existing bilateral agreements with the provisions of the AfCFTA, the potential conflicts or synergies between these agreements, and the implications for Nigeria's trade policy and economic development; as well as range of challenges associated with bilateral agreements and their compatibility with the wider framework of the AfCFTA¹².

¹⁰ Muftau Ismail. (2023) Overview of the African Continental Free Trade Area (AfCFTA) and Challenges of Implementation: Nigeria and South Africa's Implementation as Case Studies. "PhD diss"., University of British Columbia.

¹¹ Jackson Steven F. (2019) Two Distant Giants. China and Nigeria Perceive each other. "European Middle Eastern and African Affairs", Winter edition: 40-74.

¹² Simo Regis Y. (2020) Trade in Services in the African Continental Free Trade Area: Prospects, Challenges and WTO Compatibility. "Journal of International Economic Law" 23, no. 1: 65-95.

Furthermore, concerns are raised about the unequal distributional effects of the AfCFTA¹³, which can create winners and losers from factors due to production capacity, domestic costs for undertakings and company productivity. As the competition from other continental economies continues to increase, certain companies or sectors in Nigeria may not be able to take advantage of market opportunities. In addition, there has been a contradictory feeling between SMEs in Nigeria because of concerns about growing foreign competition and the dumping of substandard goods¹⁴. Moreover, in the light of a global pandemic and recession, it is also unclear how Nigeria's families and businesses will be affected by reducing tariffs on goods and services. The effectiveness of dispute resolution mechanisms within the AfCFTA framework and bilateral agreements remains uncertain, raising concerns about the enforceability of trade-related disputes and the protection of Nigeria's interests in the face of legal challenges. Other important issues such as the need for harmonized legislation, enforcement mechanisms and balance between national interests and continental integration are among issues yet to be exhaustively discussed. The study focused at contributing to an ongoing debate on the efficacy of trade agreements under the auspices of the AfCFTA. Addressing these issues requires a comprehensive comparative legal analysis that examines the legal structures, rights, obligations, and dispute resolution mechanisms embedded within the AfCFTA and bilateral agreements by identifying the legal challenges and opportunities inherent in Nigeria's trade policy framework.

This study conducted a descriptive legal analysis of Nigeria's engagements with the AfCFTA and its bilateral agreements. By examining the legal structures, provisions, and implications of these agreements, this research provided insights into the opportunities and challenges inherent in Nigeria's trade policy framework. Furthermore, it contributes to the broader

¹³ Obeng-Odoom Franklin. (2020) The African Continental Free Trade Area. "American Journal of Economics and Sociology" 79, no. 1: 167-197.

¹⁴ Magu Stephen M. and Stephen M. Magu. (2021) Region or Continent: OAU Development and Regional Economic Communities. "Explaining Foreign Policy in Post-Colonial Africa": 231-263.

discourse on the effectiveness of regional integration mechanisms and the role of bilateral engagements in shaping Nigeria's economic trajectory.

Through an exploration of historical contexts, existing literature, and empirical evidence, this study elucidated the legal intricacies surrounding Nigeria's participation in the AfCFTA and bilateral agreements. By delving into the legal frameworks, rights, obligations, and dispute resolution mechanisms embedded within these agreements, the thesis offered a comprehensive understanding of the legal underpinnings shaping Nigeria's trade landscape. It is essential to understand the past context of Nigeria's involvement in bilateral agreements and its role as an AfCFTA member state if we are to assess the current regulatory situation and possible challenges¹⁵.

Ultimately, the findings of this study are intended to inform policymakers, legal practitioners, and stakeholders involved in Nigeria's trade policy formulation and implementation. By identifying key insights and recommendations, the study endeavoured to contribute to the optimization of Nigeria's trade relations within the evolving global economic framework. The purpose of this chapter is to give an overview of the thesis and provide a basis for subsequent chapters in discussing the history of Nigeria's participation in international trade agreements and examining their legal effects and effectiveness.

1.2 Statement of the Problem

The African Continental Free Trade Agreement (AfCFTA) represents a significant shift towards economic integration in Africa, promising enhanced trade and investment opportunities among member states. However, Nigeria, as a key player in the African economy, has entered various bilateral agreements that may conflict with the objectives and

¹⁵ Nwankwo Chidebe Matthew and Collins Chikodili Ajibo. (2020) Liberalizing Regional Trade Regimes through AfCFTA: Challenges and Opportunities. "Journal of African Law" 64, no. 3: 297-318.

provisions of the AfCFTA. This raises critical questions about the coherence and compatibility of Nigeria's bilateral agreements with the broader framework of the AfCFTA.

This thesis aims to investigate the legal implications of these concurrent trade agreements, exploring how Nigeria can balance its commitments to the AfCFTA while honoring its existing bilateral obligations. The analysis will highlight potential legal conflicts, inconsistencies in trade policies, and the implications for Nigeria's economic sovereignty and regional trade relations. Ultimately, this study seeks to contribute to a clearer understanding of the legal landscape governing trade in Africa, particularly in the context of Nigeria's evolving role within it.

1.3 Significance of the Study

In order to understand how these trade agreements may affect Nigeria's economy, a study of the African Continental Free Trade Agreement and bilateral agreements in Nigeria is very important. It provides insight on opportunities and challenges arising from improved access to cheaper goods and services in other Africa countries, as well as possibilities for benefits and concerns about rising external competition and the dumping of inferior products.

Other benefits of the study include but not limited to the following:

- i. **Informing Policy Decisions:** As Nigeria navigates its participation in the AfCFTA and negotiates bilateral agreements, policymakers require informed insights into the legal implications of these agreements. This study provides policymakers with a comprehensive understanding of the legal frameworks governing Nigeria's trade relations, enabling them to make strategic decisions that align with national economic objectives.
- ii. **Enhancing Legal Clarity:** By conducting a comparative analysis of the AfCFTA and bilateral agreements, this study contributes to clarifying the legal landscape

surrounding Nigeria's trade engagements. It thus identify areas of alignment, potential conflicts, and areas requiring legal harmonization, thus providing clarity for legal practitioners and policymakers involved in trade negotiations and dispute resolution.

- iii. **Promoting Trade Development:** Understanding the legal intricacies of the AfCFTA and bilateral agreements is essential for promoting trade development and investment flows in Nigeria. By identifying opportunities for leveraging regional integration mechanisms and bilateral partnerships, this study facilitates trade expansion, market access, and economic growth within Nigeria and across the continent.
- iv. **Mitigating Legal Risks:** Trade agreements entail legal risks, including disputes over compliance, interpretation, and enforcement. Through an analysis of dispute resolution mechanisms within the AfCFTA and bilateral agreements, this study identifies potential legal risks and mechanisms for mitigating them. By providing insights into effective dispute resolution strategies, this research has contributed to safeguarding Nigeria's interests and reducing legal uncertainties in trade relations.
- v. **Contributing to Academic Discourse:** This study contributes to academic scholarship by advancing the understanding of the legal dimensions of regional integration and bilateral trade agreements. By synthesizing existing literature, conducting empirical analysis, and offering insights into emerging legal issues, this research enriches academic discourse on international trade law, regional integration, and economic development in Africa.

Overall, the significance of this study lies in its potential to inform policy decisions, enhance legal clarity, promote trade development, mitigate legal risks, and contribute to academic discourse on Nigeria's participation in the AfCFTA and bilateral agreements.

1.4 Aim and Objectives of the Study

This study primarily focused on carrying out a descriptive legal analysis of Nigeria's bilateral and multi-lateral agreements, with particular regards to the African Continental Free Trade Agreement.

The specific and general objectives of the study include the following:

- i. Review existing literature on the legal aspects of regional integration, international trade law, and bilateral agreements, with a focus on Nigeria.
- ii. Analyze the legal structure, provisions, and obligations of the AfCFTA agreement and selected bilateral agreements involving Nigeria.
- iii. Compare the rights, obligations, and dispute resolution mechanisms embedded within the AfCFTA and bilateral agreements.
- iv. Propose recommendations for policymakers, legal practitioners, and stakeholders involved in Nigeria's trade policy formulation and implementation.
- v. Contribute to academic scholarship by advancing the understanding of the legal dimensions of regional integration, international trade law, and economic development in Nigeria and Africa as a whole.

1.5 Research Questions

The following research issues guided this study in order to reach the stated objectives:

- a. How do the legal structures and provisions of the AfCFTA compare with those of selected bilateral agreements involving Nigeria?
- b. To what extent are Nigeria's existing bilateral agreements compatible with the provisions of the AfCFTA, and what areas require legal harmonization?
- c. How effective are the dispute resolution mechanisms within the AfCFTA framework and bilateral agreements in addressing trade-related disputes involving Nigeria?

- d. What policy recommendations can be proposed for optimizing Nigeria's participation in the AfCFTA and bilateral agreements, based on the legal analysis and empirical evidence?

1.6 Methodology

The study adopted a doctrinal law research, involving qualitative methods¹⁶. The study is also descriptive as well as comparative. Descriptive research enables the paper to expose the characteristics, values and nature of the subject matter, "AfCFTA and Bilateral Agreements", while the comparative research element enables the pairing of both subject matters with the aim to distinguish and find similarities between them - "the study of the relationship of one legal system and its rules with another."¹⁷ Such a process requires "specific comparative reflections on the problem to which the work is devoted."¹⁸ The heavy reliance on existing laws and conventions to posit some positions of law, represented the doctrinal approaches to the study.

The study is based on a combination of methodological approaches in which an extensive review of currently available literature, legal documents and business contracts. In order to gain an understanding of the realities and opportunities arising from Nigeria's bilateral agreements and the AfCFTA, published interviews with important stakeholders, law experts as well as policy makers were critiqued. The aim of this holistic methodology is to provide a comprehensive and detailed understanding of the subject matter.

By employing a robust research methodology encompassing doctrinal approaches, legal analysis, literature review, comparative studies, case studies, empirical analysis, policy

¹⁶ See Adegbite A. E (2022) *Fundamentals of Legal Research and Methods in Nigeria*. Ibadan; LCU College Press and Nelson C. E (2016) *Legal Research Methodology and Project Writing*. Edo, Ambrose Alli University Press for more details on legal research designs

¹⁷ Watson A. (1974), Legal Transplants: An Approach to Comparative Law in Barker W (1996), A Comparative Approach to Income Tax Law in the United Kingdom and the United States, "Catholic University Law Review" 7. Pg 42

¹⁸ Zweigert K. & Kotz H (1987), *Introduction to Comparative Law*. Tony Weir, Trans., Oxford Univ. Press 2d Ed.

analysis, and interdisciplinary insights; this research aims to provide a comprehensive understanding of Nigeria's participation in the AfCFTA and bilateral agreements, offering valuable insights for policy formulation and implementation.

1.7 Scope of the Study

This study mainly focused on bilateral agreements with Nigeria within the scope of the African Continental Free Trade Agreement, taking into account the broad nature of international commercial agreements and the complexity of legal frameworks. The study focuses primarily on Nigeria's participation in the African Continental Free Trade Agreement (AfCFTA) and its bilateral agreements with selected countries. While the AfCFTA encompasses the entire African continent, this study primarily examines the implications for Nigeria. The study thus identifies potential legal policy recommendations for optimizing Nigeria's trade relations and economic development strategies.

1.8 Limitations of the Study

While the study sought a broad perspective, some constraints such as the international relations' dynamic character may have an influence on the level of analysis in specific areas.

Other limitations include:

- i. **Data Availability:** The availability of comprehensive and up-to-date data on Nigeria's participation in the AfCFTA and bilateral agreements pose limitations. The study relied on existing literature, official documents, and publicly available data, which may not capture all aspects of Nigeria's trade engagements.
- ii. **Scope of Analysis:** Due to the complexity and breadth of Nigeria's trade relations, the study did not comprehensively cover all bilateral agreements or sectors of the

economy. It thus focused on selected agreements or sectors based on relevance and significance.

- iii. Legal Interpretation: Legal analysis involves interpretation and may be subject to differing viewpoints. While the study provides an objective analysis, interpretations of legal frameworks and provisions may vary based on different perspectives; and
- iv. Dynamic Nature of Trade Relations: Trade agreements and policies are subject to change over time due to evolving geopolitical dynamics, economic conditions, and regulatory frameworks. The study provides insights based on the current context but does not capture future developments or changes in trade relations.

Despite these limitations, the study endeavours to provide a comprehensive analysis of Nigeria's participation in the AfCFTA and bilateral agreements, offering valuable insights for policymakers, legal practitioners, and stakeholders involved in Nigeria's trade policy and economic development.

1.9 Operational Definition of Terms

- i. African Continental Free Trade Area: A trade agreement aiming to create a single market for goods and services across Africa, enhancing economic integration and boosting intra-African trade.
- ii. Bilateral Agreements: Legal arrangements between two countries that regulate trade or cooperation on specific issues, promoting mutual benefits like trade and investment.
- iii. Bilateralism: The conduct of political, economic, or trade relations between two sovereign countries, contrasted with multilateralism which involves multiple countries.
- iv. Customs Procedures: The formalities necessary for moving goods across borders, which trade agreements like AfCFTA aim to simplify and expedite.

- v. Customs Unions: An agreement between two or more neighbouring countries to remove trade barriers and adopt a common external tariff on goods from non-member countries.
- vi. Dispute Resolution Mechanisms: Procedures set in place to resolve conflicts arising from trade agreements, such as arbitration or mediation.
- vii. Diversification: The strategy of reducing dependency on a single economic sector by expanding into new industries, important for countries like Nigeria to mitigate oil dependency.
- viii. Economic Growth: The increase in a country's production and consumption of goods and services, driven by enhanced trade opportunities.
- ix. Foreign Direct Investment (FDI): Investment made by a company or individual in one country into business interests in another, often facilitated by trade agreements.
- x. Free Trade Area: A region where countries agree to reduce or eliminate trade barriers such as tariffs, to encourage cross-border trade.
- xi. Global Competitiveness: The ability of a country or company to compete effectively in the global market, often enhanced through trade agreements like AfCFTA.
- xii. Inclusive Development: Economic growth that is broad-based and benefits all sectors of society, a key goal of agreements like AfCFTA.
- xiii. Intellectual Property Rights: Legal protections for creations of the mind, such as inventions, literary works, and trademarks, covered under trade agreements.
- xiv. Intra-African Trade: Trade between African countries, which AfCFTA aims to enhance by reducing barriers and promoting economic integration.
- xv. Investment Promotion: Efforts to attract foreign or domestic investments through predictable market conditions and legal guarantees under trade agreements.

- xvi. Legal Framework: The set of rules, principles, and guidelines that govern the execution and operation of trade agreements, ensuring compliance and dispute resolution.
- xvii. Liberalization: The reduction or elimination of government regulations or restrictions in a market to promote freer trade.
- xviii. Market Access: The ability of a country or company to sell goods and services across borders, often improved through trade agreements.
- xix. Preferential Treatment: Special trade privileges granted to certain products or services from specific countries, often under trade agreements like AfCFTA.
- xx. Regional Integration: The process of countries in a region coming together to form closer economic, political, or social ties, as seen in initiatives like AfCFTA.
- xxi. Rules of Origin: Criteria used to determine the national source of a product, crucial in trade agreements for determining tariff reductions and eligibility.
- xxii. Single Market: A type of trade bloc where goods, services, capital, and labour move freely without restrictions between member countries.
- xxiii. SMEs (Small and Medium Enterprises): Businesses with a small to medium number of employees and revenue, which often benefit or face challenges from trade agreements.
- xxiv. Tariff Barriers: Taxes or duties placed on imported goods, which are often reduced or eliminated in free trade agreements.
- xxv. Trade Facilitation: Measures aimed at simplifying and speeding up customs and border procedures to improve trade efficiency.
- xxvi. Trade in Goods: Provisions under agreements focusing on the movement of physical products between countries, often involving tariff reductions or exemptions.

xxvii. Trade in Services: Refers to cross-border trade in sectors like finance, telecommunications, and tourism, covered under agreements like AfCFTA.

Chapter Two

Legal and Institutional Frameworks

The Chapter focuses on both historical and practical aspects underpinning the study in order to give an overview of the complex structure of bilateral agreements. This chapter gives an overview of the concept and aims of bilateral agreements, as well as exploring their broader context within African Continental Free Trade Area. In addition, it examines the evolution of the AfCFTA from a historical perspective, which explains its objectives or goals, legal and economic framework.

2.1 Concepts of Bilateral Agreements

Bilateral agreements, which are complex legal arrangements that embody the mutual understanding and commitment of two sovereign entities, usually countries, to regulate and enhance economic interactions, constitute a key instrument in international relations¹⁹. These agreements are of vital importance, particularly in the field of trade, as it is used to promote cooperation and coordination²⁰. Within the context of international trade, these agreements serve the purpose of regulating or promoting trade between countries. A fundamental

¹⁹ Jayasuriya Kanishka. (1998) Globalization, Law and the Transformation of Sovereignty: The Emergence of Global Regulatory Governance. "Global Legal Studies". 6: 425.

²⁰ Apiko Philomena, Sean Woolfrey and Bruce Byiers. (2020) The Promise of the African Continental Free Trade Area (AfCFTA). "ECDPM Discussion Paper 287": 1-16.

understanding of the basic concepts underlying these agreements is necessary to build a theoretical framework for analyzing Nigeria's participation in such agreements.

Reciprocity and mutual consent are the core characteristics of bilateral agreements²¹. These agreements recognize the mutual interest and objectives of both parties, which is reflected in their willingness to sign a formal agreement. The nature of these bilateral agreements is constantly fluid and adapts to the evolving needs and priorities of the countries concerned²². This flexibility is needed to address the complex nature of international relations, where economic, political and social factors come together.

Its bilateral or two-party nature characterizes the character of bilateral agreements. Bilateral agreements only involve two parties, in contrast with multilateral agreements which involves multiple countries²³. A more personalized and focused negotiation process which enables the different needs and interests of each country to be addressed is enabled by this bilateral structure²⁴. The nature of such agreements reflects the sovereignty of the parties involved, because they willingly enter into negotiations in a spirit of mutual benefit²⁵.

Bilateral agreements cover an extensive range of topics, including those which are outside the scope of mere commercial considerations²⁶. There is a wide and multifaceted scope for bilateral agreements, which cover a wide range of aspects of international relations. Although trade is an important component, these agreements often contain more fundamental elements such as diplomatic relations, technical cooperation, investment, security and cultural exchanges²⁷. The scope, reflecting the diverse range of issues which can be solved through

²¹ Signé Landry and Colette Van der Ven. (2019)

²² See Akinkugbe Olabisi D. (2021) A Critical Appraisal of the African Continental Free Trade Area Agreement: International Economic Law from a (South) African Perspective in Franziska Sucker and Kholofelo Kugler (2021) *JUTA Law* (ed) South Africa.

²³ Signé Landry and Colette Van der Ven. (2019) Keys to Success for the AfCFTA Negotiations.

²⁴ Ibid, no 27

²⁵ Sanni Oluwaseyi. (2020) Proposing a Constructivist Approach to Resolving Trade Conflicts under the African Continental Free Trade Area Agreement (AfCFTA): A Cross-Jurisdictional Analysis. "PhD diss."

²⁶ MacLeod Jamie, David Luke and Geoffroy Guepie. (2023) *The AfCFTA and Regional Trade*. 23-50.

²⁷ Fofack Hippolyte. (2020) Making the AfCFTA Work for 'The Africa We Want'. "Brookings Africa Growth Initiative Working Paper".

bilateral contracts, may vary depending on the specific needs and priorities of the countries involved. In the context of international trade, the scope often includes provisions for tariff reduction, access to markets, intellectual property rights and dispute settlement mechanisms²⁸. Bilateral agreements enable countries to adapt the scope according to their particular circumstances and priorities, which give them a wide range of options for addressing their special needs.

Bilateral agreements between two states are apparent in different forms, each designed to deal with specific aspects of the bilateral relationship. Among other things, trade agreements, investments treaties, double taxation and memorandum of understandings can be included. In trade agreements, for instance, reductions in tariffs, access to markets and regulatory alignment can be addressed. On the other hand, investment agreements aim at protecting and promoting investments between the parties.

2.2 Objectives and Goals of Bilateral Agreements

Bilateral agreements have multifaceted purposes, which are due to a profound interplay between the economy, politics and society²⁹. Understanding the different goals of these agreements is crucial in order to comprehend why Nigeria participates and how they fit within wider national and continental objectives.

Bilateral agreements, which include a broad range of objectives beyond economic considerations, serve to be dynamic instruments with multiple purposes³⁰. The aim of such agreements is to address diverse objectives, recognizing the interdependence between trade, policy and social issues. It is important to carefully explore Nigeria's overarching domestic

²⁸ Kuhlmann Katrin and Akinyi Lisa Agutu. (2019) *The African Continental Free Trade Area: Toward a New Legal Model for Trade and Development*. *Geo. J. Int'l L.* 51: 753.

²⁹ Soutar Nicholas (2021) *The Political Economy of the African Continental Free Trade Area (AfCFTA): A Policy Analysis of the Prospects and Challenges*. "Unpublished Master's thesis".

³⁰ *Ibid*, no 29

and continental objectives, which include the following, in order to understand why it has taken part in such agreements.

- a. Economic Goals/Objectives
- b. Political Goals/Objectives, and
- c. Social and Cultural Goals/Objectives

Bilateral agreements are essential tools for advancing Nigeria's economic objectives, particularly in the areas of trade promotion and economic growth. By reducing trade barriers such as taxes, quotas, and tariffs, these agreements provide Nigeria with access to larger international markets, which in turn enhances its export potential and drives overall economic growth.³¹ Participation in these agreements not only allows Nigeria to expand its trade horizons but also fosters a more competitive environment for local industries, encouraging innovation and productivity. With its vast natural resources and growing population, Nigeria stands to benefit from increased trade and investment opportunities, which are crucial for creating jobs and improving the standard of living for its citizens.³²

Another key economic goal for Nigeria is diversification³³, and bilateral agreements play a significant role in facilitating this process. By promoting trade in various sectors beyond traditional industries, such agreements create opportunities for economic diversification and a more balanced economic portfolio. Additionally, provisions for attracting Foreign Direct Investment (FDI)³⁴ are often embedded in these agreements, helping Nigeria attract critical

³¹ See Gogo Isabelle L. (2021) Examining the Prospects of the African Continental Free Trade Area (AfCFTA) in Facilitating Free Trade in Africa-a Case Study of Kenya. "PhD diss.", University of Nairobi; and Apiko Philomena, Sean Woolfrey and Bruce Byiers. (2020) The Promise of the African Continental Free Trade Area (AfCFTA). "ECDPM Discussion Paper 287": 1-16

³² See Attia Sayed. (2021) The Role of Trade Facilitation and Other Policy Strategies in the Successful Implementation of AfCFTA. "Global Trade and Customs Journal" 16, no. 11/12; and Ogbale Okojoku Kennedy and Iloh Judithmary Ogochukwu (2022) African Continental Free Trade Area and Economic Integration in Africa. *Africa's International Relations in a Globalising World: Perspectives on Nigerian Foreign Policy at Sixty and Beyond*: 211

³³ See Cattaneo Nicolette. (2020) "Africa's Trade in Services and the African Continental Free Trade Area Agreement."

³⁴ Jibrilla Adamu. (2018) African Continental Free Trade Area (AfCFTA) and Its implications for Nigeria: A Policy Perspective. "International Journal of Research and Innovation in Social Science" 2, no. 12: 164-174

investments that contribute to job creation, technology transfer, and the development of key sectors such as infrastructure, manufacturing, and agriculture. By creating a favorable business environment through these agreements, Nigeria is better positioned to achieve long-term sustainable growth and enhance its overall economic resilience.

Bilateral agreements also play a crucial role in advancing Nigeria's political objectives, particularly in the area of diplomatic relations. These agreements serve as essential tools for building and maintaining strong relationships between countries.³⁵ By engaging in bilateral agreements, Nigeria can strengthen its diplomatic ties with other nations, forming broader geopolitical alliances. Such alliances not only enhance Nigeria's influence on international platforms but also garner support on global issues ranging from trade to human rights. Through these agreements, Nigeria has the opportunity to position itself as a key player in international diplomacy, fostering mutual cooperation and understanding with partner nations. In addition to diplomatic relations, bilateral agreements also contribute to political stability and security cooperation. Many agreements include provisions aimed at addressing common security concerns, fostering regional stability, and establishing frameworks for collaboration on geopolitical challenges.³⁶ Nigeria can leverage these agreements to respond to shared security threats such as terrorism, human trafficking, and piracy in West Africa. Moreover, by participating in bilateral agreements, Nigeria aligns its policies with global norms and standards, which reinforces its commitment to international cooperation.³⁷ This alignment not only boosts Nigeria's standing in the global community but also promotes a positive international image, showcasing the country's dedication to upholding global best practices and fostering political stability.

³⁵ Sibanda Sr Omphemetse S. (2021) The Advent of the African Continental Free Trade Agreement as a Tool for Development. "Foreign Trade Review" 56, no. 2: 216-224

³⁶ Ibid, no 20

³⁷ Muftau Ismail. (2023) Overview of the African Continental Free Trade Area (AfCFTA) and Challenges of Implementation: Nigeria and South Africa's Implementation as Case Studies. "PhD diss.", University of British Columbia.

Bilateral agreements can play a significant role in advancing Nigeria's social and cultural goals, particularly through initiatives like cultural exchange programs. These agreements often include provisions that foster cultural and educational exchanges, encouraging shared understanding between countries and enhancing the quality of education. Such initiatives facilitate stronger relationships between people of different nations, promoting mutual respect and cooperation. For Nigeria, these cultural exchanges can help strengthen international ties, improve global perception, and support the country's efforts in building soft power. By participating in these programs, Nigeria aims to foster a deeper connection with other nations, promoting its rich cultural heritage while learning from others.

In addition to cultural objectives, bilateral agreements can also address key social development issues, such as healthcare, education, and poverty alleviation. Nigeria may enter into such agreements with the aim of improving the living standards of its citizens and addressing its socio-economic challenges. By focusing on critical areas like access to healthcare, educational reform, and poverty reduction, these agreements align with Nigeria's broader objectives for social development.³⁸ Partnerships formed through these agreements can bring in technical expertise, resources, and funding that help Nigeria tackle its social issues more effectively, contributing to a healthier, more educated, and prosperous society.

Nigeria often participates in bilateral agreements for the following reasons:

- i. **Economic Diversification:** Nigeria, which has a large dependence on oil revenue, may be part of bilateral agreements designed to diversify its economy³⁹. The country aims to reduce economic vulnerability and build a more resilient and balanced economy, by looking for opportunities in sectors other than oil. The desire to develop its economy is at the heart of Nigeria's participation in bilateral agreements. By expanding trade

³⁸ Ijaiya T. A., G. T. Ijaiya and Mukaila Adebisi Ijaiya. (2021) "African Continental Free Trade Area (AfCFTA) and Poverty Reduction in Nigeria: An Exploration of the Possibilities."

³⁹ Omoju Oluwasola E. and Emily E. Ikhide. "Harnessing the AfCFTA for Economic Diversification in Nigeria: The Role of Trade Logistics and Infrastructure." Strategic Policy Options for Bracing Nigeria for the Future of Trade (2020): 159-171.

opportunities and attracting foreign investments, the country aims to stimulate economic growth, reduce poverty and create sustainable development. The objective is to generate economic growth, poverty reduction and sustainable development through the expansion of trade possibilities and attracting investments from abroad⁴⁰.

- ii. Attracting Foreign Direct Investment (FDI): Nigeria can actively take part in bilateral agreements aimed at attracting foreign investment, with a view to accelerating economic growth and development. Nigeria intends to seek external capital, technology and expertise by promoting an investor friendly environment within the framework of trade agreements⁴¹.
- iii. Diversification and Industrialization: Nigeria's objective of diversifying the economy and promoting industrialization is compatible with bilateral agreements⁴². Nigeria is seeking the development of non-oil sectors and building resilience and diversified economies through its negotiation of favorable conditions under these agreements.
- iv. Regional Integration: The participation of Nigeria in bilateral agreements is in line with broader regional integration efforts. Nigeria is a major player in supporting trade cooperation within the continent, because of its position as Africa's largest economy⁴³. Bilateral agreements, notably within the framework of the African Continental Free Trade Area (AfCFTA), could serve as a starting point for achieving this regional integration⁴⁴. In practice, Nigeria has often aligned itself with the larger regional integration effort by taking part in bilateral agreements. Nigeria is a key player on the

⁴⁰ Obasan Olusegun. (2020) "Stimulating Intra-Africa Trade for Economic Growth through African Continental Free Trade Area (AfCFTA) Exploring the Lingering Barriers to Success."

⁴¹ Ogbole Okojoku Kennedy and Iloh Judithmary Ogochukwu. (2022) "African Continental Free Trade Area and Economic Integration in Africa.": 211.

⁴² EDUN Abdulkareem Jimoh, Isiaka Seriki ADAMU and Salihu Mosadioluwa AYINDE.(2022) International Economy and Ethno-regionalist Sensibilities of AfCFTA in Nigeria. "Zamfara Journal of Politics and Development" 3, no. 3: 14-14.

⁴³ Ibid, no 38

⁴⁴ Parshotam Asmita (2018) "Can the African Continental Free Trade Area Offer a New Beginning for Trade in Africa?"

African continent, and it seeks to play its part in achieving Africa's objectives set out in Agenda 2063.

- v. **Global Competitiveness:** Nigeria is able to establish itself as a global competitor by entering into bilateral agreements. Bilateral agreements provide Nigeria with the opportunity to become a global player, contributing to its international competitiveness. Nigeria can strengthen its position at regional and global levels, contributing to the development of its domestic interests by promoting economic and diplomatic relations. The country further enhances its competitiveness and attractiveness to investors by complying with international trade rules and standards.
- vi. **Leadership in Regional Cooperation:** Nigeria's desire to be a leading player in the region is consistent with its participation in bilateral agreements. Nigeria aims at playing an important role in shaping the economic and policy landscape of Africa through active engagement with neighboring countries and major players on the continent.
- vii. **Alignment with Broader Objectives:** The bilateral agreements of Nigeria under the African Continental Free Trade Agreement are strategically aligned with each other. Nigeria contributes to the achievement of the objectives of the African Continental Free Trade Area, namely the creation of a single market, promoting economic integration and enhancing intra-African trade, by aligning its individual agreements with the broader continental objectives⁴⁵. Another is the Sustainable Development Goals (SDGs), a global framework to tackle pressing problems such as poverty, inequality and environmental sustainability is set out in the UN's Sustainable Development Goals⁴⁶. A commitment to achieving these Sustainable Development

⁴⁵ Ibid, no 8.

⁴⁶ Kuhlmann Katrin, Chantal Line Carpentier, Tara Francis and Malou Le Graet. (2021) "Trade Policy for Resilient, Inclusive, and Sustainable Development in a New International Economic Order." Inclusive, and Sustainable Development in a New International Economic Order.

Goals, together with international efforts on sustainability development, may guide Nigeria's participation in bilateral agreements.

In essence, the strategic alignment of economic, political and social objectives with wider national and continental priorities drives Nigeria's participation in bilateral agreements. These agreements provide Nigeria with a means of advancing its interests at the global level, strengthening cooperation and contributing to achieving sustainable development objectives.

2.3 The African Continental Free Trade Agreement (AfCFTA)

The African Continental Free Trade Agreement (ACFFTA) is a revolutionary initiative aimed at enhancing economic integration across the African continent⁴⁷. Its beginning can be traced back to the Abuja Treaty of 1991, which was instrumental in establishing the African Economic Community⁴⁸. However, the launch of negotiations by the African Union in 2012 led to significant steps towards the AfCFTA⁴⁹.

Intensive negotiations between African countries on the creation of a single market for goods and services have been part of the development of the AfCFTA. Various factors were taken into account in these negotiations, such as the diversification of economies, level of industrialization and need for inclusive development. The African Continental Free Trade Area is not just a trade agreement, but an entire attempt to resolve past imbalances and foster sustainability in Africa's development.

⁴⁷ Mlambo Halalisan Victor and Mfundo Mandla Masuku: (2020) "The African Continental Free Trade Area Agreement (AfCFTA): Possible Benefits for Women and Youth in Africa."

⁴⁸ Gumede Vusi. (2021) The African Continental Free Trade Agreement and the Future of Regional Economic Communities. "Journal of Contemporary African Studies" 39, no. 3: 470-483.

⁴⁹ Manboah-Rockson Joseph K. (2021) Grabbing the 'Bull by the 'Horns'': A Critical Analysis of the Establishment of AfCFTA. "Open Journal of Political Science" 11, no. 2: 301-315.



Figure 1: The African Continental Free Trade Area (AfCFTA)

Source: Tralac (2023)

The AfCFTA⁵⁰, the agreement establishing the African Continental Free Trade Area was officially signed in March 2018 in Kigali, Rwanda and brings together 55 African states, of which 36 member states ratified the treaty for its creation as at the time of its creation. The AfCFTA entered into force on 30th May 2019, after having exceeded the required number of ratifications⁵¹. The AfCFTA was expected to start work in July 2020. However, due to

⁵⁰ Article 2, AFCTA Agreement establishing the AFCTA.

⁵¹ Döring Katharina PW and Ulf Engel. (2021) Regional Integration and Trade. “Yearbook on the African Union” Volume 1 (2020), pp. 177-193. Brill.

Coronavirus, it did not begin operations until the start of 2021. Its Secretariat is based in Accra, Ghana. The AfCFTA is the world's largest free trade area⁵², having a market reach of 1.4 billion consumers, making it the world's largest free trade area⁵³.

The main objective of the AfCFTA⁵⁴ is to create a single market for goods and services, facilitated by movement of persons, in order to deepen the economic integration of the African continent. More specifically, the State Parties shall progressively eliminate tariffs and non-tariff barriers, progressively liberalise trade in services, cooperate on investment, intellectual property rights and competition policy, cooperate on all trade-related areas, cooperate on customs matters and the implementation of trade facilitation measures, establish a mechanism for the settlement of disputes concerning their rights and obligations, and establish and maintain an institutional framework for the implementation and administration of the AfCFTA.

2.3.1 Legal framework

The Agreement Establishing the African Continental Free Trade Area (AfCFTA) lays out a comprehensive legislative framework that governs the operations, principles, and objectives of the trade area. This agreement serves as a legal foundation for one of the largest free trade zones in the world, aimed at enhancing intra-African trade and economic integration. By outlining the operational mechanisms necessary to achieve these goals, the agreement establishes a structured approach to improving trade relations among African countries. It seeks to harmonize various economic activities and reduce trade barriers, all while supporting the developmental needs of less industrialized member states.⁵⁵

⁵² African Continental Free Trade Area, Market Intelligence – International Trade Administration. (2022)

⁵³ John IGUE (2020), Regional and Continental Integration in Africa in the Covid-19 Era: New Drivers and Perspectives. Institute of New Economic Thinking. "African Paper Series 2".

⁵⁴ Article 3, AfCFTA, Objectives of the AfCFTA Agreement.

⁵⁵ See Sebahizi Prudence. (2018) "Agreement Establishing the African Continental Free Trade Area; Osinuga Damilola. (2023) The Nigerian Cabotage Act and the Ideals of the African Continental Free Trade Area: An

One of the key components of the AfCFTA is the Trade in Goods section, which aims to abolish import duties on 90% of goods traded among member states. This phased approach is designed to gradually eliminate tariff barriers, making goods more accessible and affordable across the continent. Importantly, the agreement includes provisions for specific and differential treatment for less industrialized countries, ensuring that their development needs are addressed. These countries are granted additional flexibility and longer timelines to meet trade objectives, which helps create a more inclusive trading environment that considers the varying levels of industrial capacity among member states.

In addition to the trade in goods, the Trade in Services provision plays a pivotal role in boosting cooperation and liberalization in sectors like telecommunications, financial services, and tourism. The agreement sets out specific commitments to progressively open these sectors, promoting cross-border service delivery and investment. By creating a more integrated services market, AfCFTA aims to improve the efficiency of service sectors, enabling them to contribute significantly to economic growth across the continent. The gradual liberalization ensures that member states have the time to adjust their domestic policies and regulatory frameworks to accommodate increased competition.

Another essential aspect of the AfCFTA framework is the Rules of Origin, which are designed to determine which products are eligible for preferential treatment within the free trade area. These rules ensure that goods benefiting from tariff reductions are genuinely produced within the African Continental Free Trade Area, promoting local production and discouraging the dumping of goods from non-member countries. By establishing clear

Unwholesome Alliance? "Journal of African Law": 1-17.; Cattaneo Nicolette (2020) "Africa's Trade in Services and the African Continental Free Trade Area Agreement; Ndonga Dennis and Emmanuel Laryea. (2022) Designing Preferential Rules of Origin for the AfCFTA: Addressing Pre-Existing Challenges at the Regional Level. "African Journal of International and Comparative Law" 30, no. 4: 451-476.; Akinkugbe Olabisi D. (2021) "Dispute Settlement under the African Continental Free Trade Area."; and Adewopo Adebambo, Desmond Oriakhogba and Chijioke Okorie. (2022) Negotiating the Intellectual Property Protocol under the Agreement Establishing the African Continental Free Trade Area: Priorities and Opportunities for Nigeria. "Law and Development Review" 15, no. 1: 33-62

criteria for product origin, the AfCFTA safeguards the interests of member states, ensuring that only goods with significant African content can access the preferential tariff rates.

To maintain stability and address potential conflicts, the AfCFTA incorporates Dispute Resolution Mechanisms through its Dispute Settlement Body (DSB). This legal framework provides a structured approach to resolving trade-related disputes between member states, ensuring that disagreements are handled efficiently and fairly. By having a robust dispute resolution mechanism in place, the AfCFTA enhances the predictability of the trade regime, giving member states and investors confidence that any trade issues will be resolved in a manner that preserves the integrity of the free trade area.

Lastly, the AfCFTA is further strengthened by the Protocols on Trade in Goods and Services, which offer detailed guidance on specific areas such as intellectual property rights, competition policy, and investment. These protocols provide clarity on the legal and regulatory measures that member states must adhere to, ensuring that trade in goods and services is conducted smoothly and consistently across the continent.

In summary, the AfCFTA provides a comprehensive legal framework that facilitates economic cooperation, trade liberalization, and dispute resolution among African countries. It addresses the unique challenges faced by less industrialized nations while promoting inclusivity, stability, and growth across the continent. Through its phased approach to trade in goods, services, rules of origin, and detailed protocols, the AfCFTA aims to create a more unified and prosperous African market.

2.3.2 Impact on bilateral agreements

The dynamics of bilateral agreements between countries participating in the African Continental Free Trade Area (AfCFTA) are significantly influenced by the overarching framework of the AfCFTA itself. As one of the most ambitious trade initiatives in Africa, the

AfCFTA provides a platform for enhancing regional economic collaboration and harmonizing trade policies across the continent. Several key impacts of AfCFTA on bilateral agreements can be identified, each shaping the nature of these agreements and fostering a more integrated and prosperous economic environment.

Firstly, Increased Regional Integration is one of the primary impacts of the AfCFTA on bilateral agreements. By establishing a larger, more coherent market, AfCFTA supports deeper regional integration among African countries.⁵⁶ The harmonization of trade rules, reduction of tariffs, and establishment of common standards across member states make it easier for countries to engage in trade with one another. Bilateral agreements within this context are enhanced as countries can build upon the common foundation provided by the AfCFTA, leading to improved regulatory convergence and increased trade flows between nations. This regional integration promotes the movement of goods, services, and capital across borders, strengthening the economic ties between participating countries.

Secondly, the AfCFTA also enables Diversification of Trade Partnerships. For countries like Nigeria, bilateral agreements serve as a strategic means of diversifying trade partners and expanding beyond traditional trading relationships.⁵⁷ The AfCFTA offers a broader platform for countries to establish new trade partnerships within the continent, which can complement and enhance the benefits derived from the continental free trade area. This diversification not only reduces dependency on a few key trade partners but also maximizes the opportunities for growth and collaboration across different sectors, ultimately boosting economic resilience. Bilateral agreements can thus be leveraged to create new avenues for trade, investment, and development within the AfCFTA framework.

⁵⁶ Olayiwola Wumi (2020) "Governing the Interface between the African Continental Free Trade Area and Regional Economic Communities Free Trade Areas: Issues, Opportunities and Challenges."

⁵⁷ Omoju Oluwasola E. and Emily E. Ikhide. (2020) "Harnessing the AfCFTA for Economic Diversification in Nigeria: The Role of Trade Logistics and Infrastructure." Strategic Policy Options for Bracing Nigeria for the Future of Trade: 159-171

In addition, the AfCFTA acts as a Stimulus for Economic Growth for the participating countries. The agreement has already shown potential to catalyze economic development by increasing intra-African trade, creating jobs, and stimulating industrial growth. Bilateral agreements that align with the AfCFTA's objectives can further amplify these effects by deepening cooperation in specific areas, such as infrastructure development, agriculture, and manufacturing.⁵⁸ For Nigeria, such agreements can unlock new markets and create economic opportunities that contribute to long-term growth. By fostering stronger trade relationships under the AfCFTA umbrella, countries can drive economic prosperity and address key development challenges.

Another critical impact of AfCFTA is the Alignment of Legal Frameworks across participating countries. Bilateral agreements within the context of AfCFTA must be consistent with the continental trade rules and regulations to ensure coherence.⁵⁹ This alignment reduces the complexity of trade rules, streamlines regulatory procedures, and facilitates smoother trade transactions between countries. By aligning their legal frameworks with the AfCFTA, countries like Nigeria can ensure that their bilateral agreements do not conflict with broader continental objectives, allowing for easier implementation and monitoring of trade policies. Such alignment contributes to a more predictable and stable trade environment, which is essential for fostering investor confidence and economic growth.

Finally, the AfCFTA can also be leveraged as a tool for Global Influence. African countries, through the collective bargaining power provided by the AfCFTA, can negotiate stronger bilateral agreements with non-African states, enhancing the continent's influence in international trade negotiations. By positioning themselves as part of a unified African market, countries like Nigeria can use bilateral agreements to boost their global trade standing and secure more favorable terms in negotiations with global economic powers. This collective

⁵⁸ Ibid, no 40

⁵⁹ Ibid, no 28

influence allows Africa to present a united front in trade discussions, improving the region's competitiveness in the global economy.

2.4 History and Origin of the AfCFTA

To understand the evolution and underlying rationales of African nations in their embarkation on this transformation journey, it is vital to explore the historical origin and origins of the AfCFTA. In the overall narrative of Africa's quest for economic integration, unity and development, there lies the historic background to the AfCFTA⁶⁰. The desire for continental economic cooperation is rooted in the period after colonialism, when African countries sought to overcome their legacy of uncultured borders and mixed economies imposed by colonial powers. The establishment of the Organization of African Unity in 1963 and its successor, the African Union in 2001, laid the foundations for cooperation to promote economic development and integration⁶¹.

The 18th Ordinary Session of the Assembly of Heads of State and Government of the African Union, held in Addis Ababa, Ethiopia in January 2012, adopted a decision to establish a Continental Free Trade Area by an indicative date of 2017. This deadline was, however, not met⁶². The Summit also endorsed the Action Plan on Boosting Intra-Africa Trade (BIAT) which identifies seven priority action clusters: trade policy, trade facilitation, productive capacity, trade related infrastructure, trade finance, trade information, and factor market integration.⁶³

⁶⁰ Kohnert Dirk (2019) "The Ethics of African Regional and Continental Integration."

⁶¹ Nagu Yakubu Idisire. (2019) From OAU To AfCFTA-Analysing The Prospects For Economic Development In Africa. "Master's thesis", Faculty of Law.

⁶² Babalola, Wasiu A. and Adenipekun, Oluwatemilorun (2023) International Economic Law in an Era of Multiple Crises: Opportunities and Challenges for Africa in the wake of AfCFTA, "International Journal of Research and Scientific Innovation (IJRSI)". Volume X Issue XI November.

⁶³ The AfCFTA has already generated an appreciable range of analysis on various subject areas. See generally, Collins C. Ajibo, (2019) African Continental Free Trade Area Agreement: The Euphoria, Pitfalls and Prospects. "Journal of World Trade" 53(5): 871- 94; Regis Y. Simo, Trade in Services in the African Continental Free Trade Area: Prospects, Challenges and WTO Compatibility, "Journal of International Economic Law"; and David

African leaders held an Extraordinary Summit on the African Continental Free Trade Area (AfCFTA) from 17-21 March 2018 in Kigali, Rwanda, during which the Agreement establishing the AfCFTA was presented for signature, along with the Kigali Declaration and the Protocol to the Treaty Establishing the African Economic Community relating to the Free Movement of Persons, Right to Residence and Right to Establishment. On that occasion, 44 out of the 55 AU member states signed the consolidated text of the AfCFTA Agreement, 47 signed the Kigali Declaration, and 30 signed the Protocol on Free Movement. To date, only Eritrea has yet to sign the consolidated text of the AfCFTA Agreement.⁶⁴

The evolution of AfCFTA can be traced to the creation of the Organisation of African Unity (OAU) on May 25, 1963, in Addis Ababa, Ethiopia, to fight against excessive Balkanization of the continent. This was followed by the creation of the East African Community by Kenya, Uganda and Tanzania in 1967. These initial steps were followed by the creation of more regional organisations from 1970 onwards, such as the Permanent Inter-State Committee for Drought Control in the Sahel (CILSS), the Mano River Union (MRU), the Customs Union of Central African States (UDAC), and the African and Malagasy Union (AMU), all in 1973. From 1975, a number of other regional bodies saw the light of day, such as ECOWAS, SADC, COMESA aimed at creating larger, more viable economies and markets.⁶⁵

The third step involved the transformation of the Organisation for African Unity (OAU) into the African Union (AU), in 2000, at Durban, South Africa. This evolution, although considered utopian in certain international circles, became necessary as the OAU had become increasingly redundant given its principal goal had been the decolonization of the Continent, which was achieved with the independence of Namibia in 1990, the end of apartheid in South Africa in 1991, and the pathway to autonomy for South Sudan in 2011.

Luke and Jamie Macleod, (2019) *Inclusive Trade in Africa: The Africa Continental Free Trade in Comparative Perspective* London: Routledge.

⁶⁴ UNECA (2023) *Tracking Africa's Progress on AfCFTA*,

⁶⁵ Ibid no 64

The fourth initiative was the creation of the New Partnership for Africa's Development (NEPAD) in July 2001 in Lusaka, Zambia. In spite of a tentative start, this project - a fusion of the Millennium Partnership for African Recovery (MAP) and Project Omega - benefitted from the special interest shown by many big powers, being given a platform in Canada in June 2002 and becoming the subject of many global publications. However, despite the enthusiasm, NEPAD has been unable to achieve its objectives, thanks to the financial crisis of 2008-2009 which brought down banks around the world and made it very hard to mobilise the money needed to get NEPAD's activities underway. NEPAD⁶⁶ is now the African Union's Development Agency (AUDA), its creation having been approved in July 2018 at the AU summit in Nouakchott, Mauritania. This decision was adopted at the January 2019 Summit in Addis Ababa, Ethiopia, with a new set of objectives which centered on:

- g. Human capital development (skills, youth, employment and empowerment of women)
- h. Industrialisation, Science, Technology & Innovation
- i. Regional Integration
- j. Trade and infrastructure (energy, water, ICT, and transport)
- k. Governance of natural resources
- l. Food security

The creation of the African Continental Free Trade Area (AfCFTA), which was finalised in Kigali, Rwanda, on March 21, 2019, by African Heads of State is part of the several initiatives noted above.

The key achievements and actions leading to the existence and operations of the AfCFTA can be summarized thus:

⁶⁶ Ibid, no 64

- i. Abuja Treaty (1991): The signing of the Abuja Treaty in 1991 was a key step towards an AfCFTA⁶⁷. The Treaty envisages, among other things, the establishment of an African Economic Community and provides for a gradual integration that includes creation of a Free Trade Area⁶⁸.
- ii. African Union Launch (2002): A significant milestone was the launch of the African Union in 2002, which underlined the continent's commitment to unity and integration⁶⁹. The African Union provided a platform to continue the effort for economic cooperation and fulfilment of the Abuja Treaty's objectives.
- iii. Kigali Declaration (2016): A renewed commitment to economic integration was expressed in the Kigali Declaration of 2016⁷⁰. In recognition of the necessity for a more united and prosperous continent, African leaders agreed to accelerate the establishment of the AfCFTA related protocols.
- iv. AfCFTA Agreement Signing (2018): The Agreement on the establishment of the African Continental Free Trade Area was signed by African leaders in Kigali, Rwanda, in March 2018. This historic occasion has given rise to a commitment to creating a single market in goods and services which, if successful, could fundamentally alter the economic landscape of the continent⁷¹.
- v. Start of Trading (2021): The AfCFTA officially began trading on January 1, 2021⁷². It marked a historic moment when Africa began to move ahead in its pursuit of more economic integration, greater bilateral trade and improved prospects for growth and development.

⁶⁷ Leshoele Moorosi. (2020) AfCFTA and Regional Integration in Africa: Is African Union Government a Dream Deferred or Denied? "Journal of Contemporary African Studies" 1-15.

⁶⁸ Thompson Bankole. (1993) Economic Integration Efforts in Africa: A Milestone-The Abuja Treaty. "Africa Journal of International and Company Law". 5: 743.

⁶⁹ Zwanbin Emmanuel. (2023) "AfCFTA and African Integration: Prospects and Challenges." African Development and Global Engagements: Policy, Climate Change, and COVID-19: 217-241.

⁷⁰ Ibid, no 8

⁷¹ Gathii James Thuo. (2019) Agreement Establishing the African Continental Free Trade Area. "International Legal Materials" 58, no. 5: 1028-1083.

⁷² Byiers Bruce. (2023) "Regional Integration and Trade." (2023).

2.4.1 Negotiation instruments

Furthermore, the negotiation instruments documented within the AfCFTA are covered under the following trade elements:

- a. Tariff Reductions and Market Access: The focus of the negotiations was on reducing import tariffs and market access, in response to the complexity of reaching an equilibrium between different economies⁷³. The intention to accommodate the needs of lesser developed countries in terms of their development is reflected by the progressive tariff reduction approach.
- b. Rules of Origin: A key aspect of the negotiations has been to establish rules on origin for products originating in the AfCFTA area, so that they receive special treatment⁷⁴. The issues relating to eligibility and verification mechanisms of products were the subject of negotiations on these rules.
- c. Trade in Services: Trade in services, with a view to facilitating liberalization in sectors such as finance, telecommunications and tourism, was also covered by the negotiations⁷⁵. The challenge must be to strike a balance between opening up the service sector and ensuring that states' interests are protected as well as promoting fair competition.
- d. Legal Framework: The comprehensive legal framework of the African Continental Free Trade Area has been developed through negotiations. Provisions on dispute

⁷³ Ibid, no 29

⁷⁴ Tsowou Komi and Junior Davis. (2021) Reaping the AfCFTA Potential through Well-Functioning Rules of Origin. "Journal of African Trade" 8, no. 2: 88-102.

⁷⁵ Simo Regis Y. (2020) Trade in Services in the African Continental Free Trade Area: Prospects, Challenges and WTO Compatibility. "Journal of International Economic Law" 23, no. 1 (2020): 65-95.

settlement, investment protection, IP rights and other aspects which are vital to the functioning of the AfCFTA was covered by this framework⁷⁶.

2.4.2 Challenges faced by AfCFTA

The African Continental Free Trade Area (AfCFTA) represents a significant milestone in the journey towards economic integration across Africa. However, the successful implementation of this ambitious trade agreement faces a multitude of challenges. One of the foremost issues is the diverse economies and capacities of the member countries. The 55 nations involved in AfCFTA vary widely in terms of economic structures, development levels, and industrial capacities.⁷⁷ Negotiating terms that accommodate both advanced and less developed economies is a delicate endeavor. There is an inherent risk of exclusion for smaller or less developed nations if the terms favor larger economies, which could undermine the very objective of the AfCFTA—to foster inclusive growth and equitable economic development across the continent.

Infrastructure and connectivity issues pose another critical challenge to the realization of AfCFTA. For trade to flourish, efficient transportation networks, logistics systems, and communication infrastructures are essential. Unfortunately, many African countries face significant obstacles in these areas, including inadequate roads, ports, and airports, which hamper the smooth movement of goods and services.⁷⁸ The lack of robust connectivity further exacerbates regional disparities and hinders trade among member states. To fully leverage the opportunities presented by the AfCFTA, substantial investment in infrastructure development is necessary. This would facilitate the efficient flow of goods, reduce transaction costs, and ultimately enhance competitiveness in the global marketplace.

⁷⁶ Amenti Abera Kajela and Tesfaye Charra. "African Continental Free Trade Area's Protocol on Dispute Settlement Mechanism: Legal Analysis of Selected Issues." PhD diss., Haramaya University, 2018.

⁷⁷ Udombana Nsongurua J. (2020) A Step Closer: Economic Integration and the African Continental Free Trade Area. "Duke J. Comp. & Int'l Law". 31: 1

⁷⁸ Ibid, no 20

The coordination and harmonization of policies and regulations across the diverse member states also represent a formidable challenge. Each of the 55 countries operates under its own legal and regulatory framework,⁷⁹ which can lead to inconsistencies and conflicts. Creating a seamless trading environment requires meticulous alignment of various legislations, customs procedures, and trade regulations. This task is complicated by the differences in governance structures, policy priorities, and regulatory capacities. Effective coordination mechanisms must be established to foster collaboration among member states and ensure compliance with AfCFTA regulations. The lack of harmonized standards could lead to trade barriers, undermining the very purpose of the agreement.

Public awareness and buy-in are critical components for the successful implementation of the AfCFTA. There is a pressing need to educate various stakeholders, including government officials, business leaders, and the general public, about the potential benefits and opportunities offered by the agreement.⁸⁰ Without adequate understanding and support at the national level, the implementation process could face significant resistance. It is essential to address concerns, clarify misconceptions, and demonstrate the tangible advantages of AfCFTA to foster an environment conducive to cooperation and collaboration. Engaging various stakeholders in the discourse will help build consensus and facilitate a more orderly implementation process.

Global economic uncertainties further complicate the landscape in which AfCFTA is being implemented. Factors such as fluctuating commodity prices, trade tensions, and the lingering effects of the COVID-19 pandemic have created an unpredictable economic environment. These uncertainties necessitate the development of robust adaptation strategies to mitigate

⁷⁹ Ibid, no 56

⁸⁰ Nyaga Stephen. (2021) An Assessment of Strategic National Interest on African Continental Free Trade Area: A Case Study of Kenya. "PhD diss.," University of Nairobi.

potential risks and safeguard the interests of member states.⁸¹ The global economic landscape is continuously evolving, and member countries must remain agile and responsive to changes. This may involve diversifying trade partnerships, investing in resilient supply chains, and adopting innovative approaches to trade that can withstand external shocks.

In conclusion, while the AfCFTA holds immense potential for fostering economic growth and development across Africa, its successful implementation is contingent upon addressing a myriad of challenges. From navigating diverse economies and enhancing infrastructure to harmonizing regulations and fostering public awareness, each challenge requires concerted efforts and collaboration among member states. By collectively overcoming these obstacles, Africa can harness the opportunities presented by the AfCFTA, paving the way for a more integrated and prosperous economic future.

2.4.3 Current status and future prospects

The AfCFTA, having commenced trading in 2021, is at a critical juncture in its implementation. A mix of optimism and challenges that need to be addressed constantly is reflected in the present situation. Addressing existing challenges, strengthening closer cooperation between member states and using the Agreement as a catalyst for sustainable growth are key factors in shaping the next prospects of the AfCFTA. These include the following key challenges:

- a. Implementation and Operationalisation: The focus is currently on the efficient implementation and operationalization of this AfCFTA. To ensure the smooth functioning of the free trade area, member states are working towards aligning

⁸¹ Gogo Isabelle L. (2021) Examining the Prospects of the African Continental Free Trade Area (AfCFTA) in Facilitating Free Trade in Africa-A Case Study of Kenya. "PhD diss.", University of Nairobi.

national policies, laying down necessary infrastructure and addressing regulatory obstacles⁸².

b. Adaptive Strategies for Challenges: In order to cope with ongoing challenges, adaptation strategies are essential. To thrive in a dynamic international context, the AfCFTA will need to be able to cope with infrastructure gaps, coordinate policies and adapt to global economic changes⁸³.

c. Inclusive Development: The AfCFTA's ability to foster inclusive development is of crucial importance for its future⁸⁴. Policies ensuring that the benefits of African Continental Free Trade Area are shared evenly, dealing with disparities across countries and promoting mutual prosperity need to be actively pursued by member states.

d. Global Engagement and Partnerships: It will be essential to interact with the global community and form strategic partnerships. The support and expertise needed to enhance the impact of the African Continental Free Trade Area can be provided through collaboration with international organizations, investors and development partners⁸⁵.

e. Continued Negotiations and Protocol Development: The evolution of the AfCFTA will be influenced by ongoing discussions and development of additional protocols. A proactive and collaborative approach between member states will be needed to address emerging challenges, for example in the field of digital trade and sustainable development.

⁸² Nyaga Stephen. "An Assessment of Strategic National Interest on African Continental Free Trade Area: A Case Study of Kenya." PhD diss., University of Nairobi, 2021.

⁸³ Fofack Hippolyte. (2020) Making the AfCFTA Work for 'The Africa we want'. "Brookings Africa Growth Initiative Working Paper"

⁸⁴ Ibid, no 20

⁸⁵ Diawara Barassou, Thomas C. Munthali and Robert Nantchouang. (2020) Capacity Imperatives for the Realization of the African Continental Free Trade Area: Issues and Policy Options. "Pan Africanism, Regional Integration and Development in Africa": 77-96.

Lastly, the determination of African countries to chart a course towards economic integration and unity was reflected in the AfCFTA's gradual evolution from its historical origin into its present form. The importance of adaptation strategies and cooperation efforts are underlined by the challenges faced in negotiations, as well as complex implementation. The future prospects of the African Continental Free Trade Area offer an opportunity to create a more interconnected and prosperous Africa, on the back of shared visions for economic development and cooperation.

2.5 Objectives and Goals of the AfCFTA.

The African Continental Free Trade Area is an initiative of great importance, with a set of concrete targets and objectives intended to promote economic integration, increase intra-African trade as well as contribute to developing the continent in general⁸⁶. Let's delve into these objectives, evaluate the effectiveness of the agreement, and explore the alignment of these goals with broader aspirations and challenges faced by African nations.

The African Continental Free Trade Area (AfCFTA) is a significant initiative aimed at promoting intra-African trade, facilitating economic cooperation among African nations. The primary objective of this initiative is to enhance trade among African countries by eliminating tariffs on 90% of goods exchanged across the continent.⁸⁷ By creating a more coherent market, the AfCFTA seeks to address the historical challenges that have hampered trade relationships between African nations, such as high tariffs and non-tariff barriers. The early indicators of progress, including an increase in trade volumes among member countries, suggest that the initiative is on the right track toward achieving its goals. This uplift in trade

⁸⁶ Odeku Kola O. and Teron Rikhotso. "African Continental Free Trade Area (AfCFTA): An Impetus for Intra-African Trade Integration." *Journal of African Foreign Affairs* 10, no. 1 (2023): 111.

⁸⁷ Ajibo Collins C. (2019) African Continental Free Trade Area Agreement: The Euphoria, Pitfalls and Prospects. "Journal of World Trade" 53, no. 5.

volumes not only demonstrates the effectiveness of the AfCFTA in facilitating easier access to markets but also lays the groundwork for a robust economic partnership across Africa.

Another crucial objective of the AfCFTA is to support economic diversification by encouraging countries to expand trade beyond their established sectors. This is vital for reducing vulnerability to external shocks and price fluctuations in commodities, which have historically dominated many African economies. By facilitating trade in goods and services, the AfCFTA provides an invaluable opportunity for nations to explore new sectors, thereby promoting economic resilience. The effectiveness of this initiative can be evaluated by observing the extent to which countries diversify their economies.⁸⁸ Successful diversification will be marked by a reduced reliance on a narrow range of products and sectors, leading to a more balanced economic structure capable of withstanding global economic changes.

The AfCFTA also aims to provide robust support for industrial development and value creation across Africa. Recognizing the critical role of industrialization in driving economic growth, the initiative includes measures designed to promote the establishment and expansion of industries throughout the continent. These measures consist of rules of origin that encourage local production and commitments to eliminate non-tariff barriers that hinder industrial growth.⁸⁹ Progress in industrial development can be gauged by increased production levels and enhanced value addition in various sectors. The creation of a conducive environment for industrial development will ultimately contribute to job creation and economic stability, reinforcing the overall objectives of the AfCFTA.

A core objective of the AfCFTA is the development of employment opportunities and the reduction of poverty across the continent. By fostering an environment of enhanced economic

⁸⁸ OBIORA Charles Arinze, Chike OSEGBUE and Anthony Ogechi OSUJI. (2022) Export Trade Diversification and the African Continental Free Trade Area (AfCFTA): Implications on Improved Intra-Regional Trade Performances in Africa. "Journal of Public Policy & Development Studies" 1, no. 1

⁸⁹ Ibid, no 20

activity through trade facilitation, the AfCFTA has the potential to create a significant number of jobs in various sectors, including manufacturing, agriculture, and services. The effectiveness of the AfCFTA in achieving these goals can be evaluated by monitoring job creation rates and improvements in living standards across member states. As more individuals gain access to stable employment, the overall economic landscape will experience positive shifts, ultimately contributing to poverty reduction. A successful AfCFTA will thus serve as a catalyst for economic growth, enabling millions of Africans to escape the cycle of poverty.⁹⁰

Improving the competitiveness of businesses and industries in Africa is another essential objective of the AfCFTA. By eliminating trade obstacles and fostering a competitive environment, the initiative aims to enhance the ability of African enterprises to thrive in both regional and global markets.⁹¹ The effectiveness of the AfCFTA in promoting competitiveness can be assessed through various indicators, such as increased efficiency in production processes, higher levels of innovation, and the ability of African products to compete favorably on the global stage. A more competitive business landscape will not only lead to increased economic growth but will also stimulate technological advancements and skill development within the workforce.

Infrastructure development is vital to facilitating trade across the continent, and the AfCFTA recognizes this necessity. The initiative aims to support infrastructure improvements that enhance transport, logistics, and connectivity among African nations.⁹² Effective implementation of the AfCFTA is expected to result in reduced obstacles for the movement of goods and services, leading to more efficient supply chains and lower transportation costs.

⁹⁰ Jules Kane, Danae Govender and David Bridgman. (2021) "Services as a Driver of Economic Growth and Job Creation in South Africa: Can the AfCTA Assist?"

⁹¹ Suleman Ohiomah Simeon. (2021) The African Continental Free Trade Area; a Strategy for Improving Trade in Africa in the 21st Century. "African Scholar Journal of Humanities and Social Sciences" (JHSS-6) 20, no. 6: 146-158.

⁹² Ibid, no 20

The progress in infrastructure development can be evaluated through the enhancement of transport networks and the overall improvement of logistical operations within member states. A well-developed infrastructure framework will be a cornerstone for the successful realization of the AfCFTA's trade objectives, enabling seamless commerce across the continent.

Integrating sustainable development principles into commercial activities is a significant focus of the AfCFTA. The initiative aims to ensure that economic growth is not only robust but also environmentally sustainable and socially inclusive. Effectiveness in this regard can be evaluated by examining the extent to which economic activities contribute to sustainable practices, such as reduced environmental impact and the promotion of social equity.⁹³ The AfCFTA's commitment to sustainable development signifies a holistic approach to economic integration, where the growth of trade and industry does not come at the expense of the environment or marginalized communities. Achieving sustainability in trade practices will be essential for ensuring long-term economic stability and societal well-being across the continent.

In conclusion, the African Continental Free Trade Area represents a transformative initiative aimed at enhancing trade, promoting economic diversification, and supporting sustainable development across Africa. By focusing on key objectives such as intra-African trade promotion, industrial development, job creation, and infrastructure enhancement, the AfCFTA lays the groundwork for a more integrated and prosperous continent. The effectiveness of the AfCFTA will ultimately depend on the collective efforts of member states to implement its provisions, monitor progress, and adapt strategies to ensure that the benefits of trade are shared equitably among all Africans. The successful realization of these

⁹³ Amodu Nojeem. (2020) Corporate Social Responsibility and Economic Globalization: Mainstreaming Sustainable Development Goals into the AfCFTA Discourse. "Legal Issues of Economic Integration" 47, no. 1

objectives will not only strengthen the economies of individual countries but will also contribute to the overall stability and growth of the African continent.

2.5.1 Alignment with broader aspirations

As reflected in initiatives such as Agenda 2063, the objectives of the AfCFTA are compatible with broader aspirations expressed by African countries⁹⁴. These include goals of economic development, eradication of poverty and inclusive growth. The African Community Free Trade Area provides a concrete means of demonstrating the commitment to African unity, prosperity and integration as indicated below:

- i. Agenda 2063: AfCFTA's emphasis on supporting economic transformation, job creation and sustainable development is an essential factor in reaching the objectives of Agenda 2063⁹⁵. Its objectives reflect a broader vision of Africa that is economically prosperous, socially inclusive and environmentally sustainable.
- ii. Regional Integration: The AfCFTA is aligned with the aspirations of Africa's states to further regional integration. The agreement, by eliminating trade barriers, has contributed to the development of a more integrated and consistent African market which would strengthen Africa's collective bargaining power at global level.
- iii. Youth Empowerment: The AfCFTA's focus on industrial development and employment is in line with the desire for youth empowerment⁹⁶. The Agreement will contribute to the development of demographic dividends and address youth unemployment, through support for industry and creation of employment opportunities.

⁹⁴ Aniche Ernest Tooche. (2020) African Continental Free Trade Area and African Union Agenda 2063: The Roads to Addis Ababa and Kigali. "Journal of Contemporary African Studies": 1-16.

⁹⁵ Bassey Okon Bassey. "Leadership and the Success of African Integration and Development Agenda: Juxtaposing the African Continental Free Trade Area-AfCFTA and Agenda 2063." (2023).

⁹⁶ Nanjira Annabel. "The Dynamics of the African Continental Free Trade Area Legal Framework and the Economic Development of the Youth." Africa Insight 50, no. 1 (2020): 76-89.

The AfCFTA is a unique initiative which has laudable objectives in line with the broader aspirations of African countries⁹⁷. Progress has been made, but there are challenges still to be overcome in terms of coordination, infrastructure development and public awareness. Finally, the impact of the AfCFTA on intra-African trade, industrialization, job creation and sustainable development is to be taken into account for its efficiency as it contributes towards realizing a unified and prosperous Africa. Cooperation and commitment to the Agreement's objectives continue to be a fundamental component of AfCFTA's continued success, as African countries deal with these challenges.

2.6 Legal and Economic Aspects of Bilateral Agreements and the African Continental Free Trade Agreement (AfCFTA)

Economic and legal considerations are critical to understanding how the African Continental Free Trade Area (AfCFTA) and bilateral agreements can complement one another. The reduction of regulatory barriers through trade facilitation is one of the significant advantages of the AfCFTA, which aims to accelerate customs procedures and reduce bureaucratic inefficiencies. By doing so, the agreement fosters a smoother trading environment across the continent, lowering transaction costs and enhancing the ease of doing business.⁹⁸ Bilateral agreements can build on this foundation by further streamlining trade processes between individual countries, offering more tailored solutions to specific trade challenges, and ensuring that businesses can take full advantage of reduced regulatory burdens.

Bilateral agreements significantly influence national economies, as they shape trade policies, investment regulations, and economic cooperation between countries. These agreements can foster a more predictable and stable business environment, which, in turn, attracts foreign direct investment (FDI). By providing a clear framework for resolving disputes, bilateral

⁹⁷ Ibid, no 15

⁹⁸ Fofack Hippolyte. (2020) Making the AfCFTA Work for 'The Africa we want'. "Brookings Africa Growth Initiative Working Paper".

agreements also help reduce the risks associated with cross-border trade and investment, encouraging economic growth. However, the impact of these agreements varies depending on their specific terms, the economic strength of the participating countries, and how well the benefits are balanced between them. For countries like Nigeria, bilateral agreements can open up larger markets and facilitate economic diversification, but it is essential that both parties experience equitable benefits to avoid economic imbalances.

The economic implications of AfCFTA on the African continent are far-reaching. By creating a single market for goods and services across the African continent, the AfCFTA will change the dynamic of trade.⁹⁹ By eliminating tariff barriers and facilitating the free movement of goods and services, AfCFTA aims to create a Single Market across Africa, boosting intra-African trade and economic cooperation. This increased trade is expected to accelerate industrialization, drive job creation, and support sustainable economic growth throughout the continent. By promoting greater economic integration, AfCFTA seeks to reduce Africa's dependency on external markets and ensure that African economies benefit from their own natural and industrial resources. The agreement holds the potential to elevate the continent's role in the global economy, making it a significant player in international trade while fostering economic resilience and self-sufficiency.

In terms of investment promotion, the AfCFTA provides a predictable market environment that encourages investment across the continent. By reducing uncertainties and creating clear rules for cross-border trade, the AfCFTA creates an enabling environment for investors who seek long-term stability.¹⁰⁰ Bilateral agreements can further promote investment by offering specific guarantees to investors, protecting their interests, and leveraging the framework provided by the AfCFTA. This dual approach ensures that investors not only see the African

⁹⁹ Ibid, no 98

¹⁰⁰ Ibid, no 98

market as an attractive investment destination but also as one where their investments are safeguarded by reliable legal protections and policy predictability.

To attract and protect investments effectively, bilateral agreements can leverage the structure and principles of the AfCFTA to enhance investor confidence. The AfCFTA's continental framework promotes market predictability by setting uniform standards for trade and investment across member states.¹⁰¹ Bilateral agreements can complement this by focusing on country-specific investment protections, offering legal and financial guarantees to investors that are tailored to national contexts. This synergy between the AfCFTA's broader principles and the specific terms of bilateral agreements helps create an attractive environment for both domestic and international investors, fostering economic growth.

Policy coordination is another critical aspect that must be considered when aligning bilateral agreements with the AfCFTA framework. Careful and coherent coordination of national policies with continental objectives is necessary to ensure that both frameworks work together to maximize the benefits of regional integration. For bilateral agreements to be effective under the AfCFTA, they must be harmonized with national policies that reflect continental goals, such as trade liberalization, economic integration, and sustainable development. This requires governments to adopt policies that align with the AfCFTA's objectives, ensuring that the agreements do not conflict with or undermine regional efforts.

The Agreement establishing the African Continental Free Trade Area provides a robust legal framework for the AfCFTA¹⁰². Dispute resolution mechanisms are integral components of bilateral agreements, designed to resolve conflicts that may arise between the parties involved. These mechanisms ensure that disagreements are handled in a peaceful, structured manner, preventing the escalation of disputes into larger conflicts that could harm diplomatic or economic relations. The most common mechanisms used in bilateral agreements include

¹⁰¹ Ibid, no 29

¹⁰² Ibid, no 28

negotiation, mediation, and arbitration. Negotiation allows parties to engage in direct discussions to resolve disputes, while mediation involves a neutral third party who helps facilitate a resolution. Arbitration, on the other hand, involves an impartial panel or arbitrator who renders a binding decision. The choice of which mechanism to use is often predetermined in the agreement itself, depending on the parties' preferences and their commitment to peaceful resolution. The African Continental Free Trade Area (AfCFTA) also incorporates a structured dispute resolution mechanism to manage trade-related disputes between its Member States. This mechanism reflects a continental commitment to peaceful dispute resolution and emphasizes dialogue as a primary tool for settling conflicts. AfCFTA's dispute settlement process includes consultation, mediation, and arbitration, much like bilateral agreements. Consultation allows Member States to engage in discussions before escalating disputes. Mediation introduces a neutral party to help the states reach an amicable solution, while arbitration provides a final, binding decision by an impartial arbitrator or panel. This structured framework is designed to promote cooperation and prevent disruptions in trade within the African continent.

Enforcement of AfCFTA's dispute settlement mechanisms is critical to maintaining the integrity of the trade area and ensuring that Member States adhere to the rules of the agreement. Member States are required to comply with the decisions of the AfCFTA dispute settlement body, contributing to a rules-based trading system within Africa. This commitment to compliance helps ensure that the outcomes of disputes are respected and that trade continues without unnecessary barriers. The willingness of Member States to follow through on enforcement procedures will be a key factor in determining the overall success of AfCFTA. Without a robust enforcement mechanism, the effectiveness of the dispute resolution process may be compromised, leading to potential disruptions in the trade agreements.

Enforcement procedures in bilateral agreements are crucial for ensuring that dispute resolution outcomes are respected and implemented by all parties. These procedures are typically defined within the agreement's provisions, offering a clear framework for enforcement. In some agreements, decisions are enforceable through the national legal systems of the parties involved, where the laws of the country ensure compliance with the terms of the agreement. In other cases, binding arbitration decisions may be adopted, requiring the parties to adhere to the ruling of an arbitration body. The effectiveness of these enforcement procedures often hinges on the clarity of the dispute settlement terms and the willingness of the parties to respect and uphold them. Without proper enforcement mechanisms, the benefits of the dispute resolution process may be undermined.

The impact of bilateral agreements and AfCFTA on trade has been linked to each other both legally and economically. The mechanisms for dispute resolution and enforcement under both legal frameworks have an impact on the economies of Member States and throughout the European Union. Effective implementation, development of infrastructure and addressing challenges in order to realize economic benefits are crucial for the success of these agreements. In order to ensure that these agreements can achieve the enormous potential of economic development and growth, it is vital for African countries to maintain their commitment to a partnership framework and an adaptive strategy as they cope with this complexity.

Finally, with the AfCFTA represents a major initiative that will alter Africa's economic landscape,¹⁰³ legal certainty is a cornerstone of both the AfCFTA and bilateral agreements.

The AfCFTA establishes a legal framework that provides businesses and investors with the security they need to operate across borders. Bilateral agreements add specificity to these legal commitments by creating more detailed regulations and protections that are tailored to

¹⁰³ Abrego Mr Lisandro, Mr Mario de Zamaroczy, Tunc Gursoy, Garth P. Nicholls, Hector Perez-Saiz and Jose-Nicolas Rosas. (2020) The African Continental Free Trade Area: Potential Economic Impact and Challenges. "International Monetary Fund".

the needs of the countries involved. This combination of regional and bilateral legal frameworks creates a stable and predictable environment for economic activity, reducing the risks associated with international trade and investment. By providing clear legal guidelines, both the AfCFTA and bilateral agreements help to foster an environment where businesses can thrive and investors can operate with confidence. The economic and legal considerations of the participating countries, including Nigeria, will continue to evolve as the AfCFTA progresses, highlighting the need for an adaptive and forward-looking bilateral relationship.¹⁰⁴

¹⁰⁴ Ibid, no 28

Chapter Three

Literature Review

3.1 Review of Existing Literature

The African Continental Free Trade Agreement (AfCFTA) is a major trade agreement aimed at creating the single market for products and services in Africa, and which offers an extensive set of opportunities for growth and integration¹⁰⁵. As one of the signatory countries, Nigeria stands to gain from easier access to cheap products and services provided by its peers in Africa. The AfCFTA is expected to reduce the tariff rate by 90%, including policies aiming at eliminating non-tariff barriers such as customs delays¹⁰⁶.

Current literature on African Continental Free Trade Agreement offers insight into historical, theoretical and practical dimensions of this agreement and the bilateral agreements with Nigeria.¹⁰⁷ For instance, studies have been carried out to examine the possible impact of an agreement with regard to trade in Nigeria's important sectors like agriculture, manufacturing

¹⁰⁵ Ibid, no 20

¹⁰⁶ Penda, Catherine N. (2021) Eliminating Thick Borders: Analysing the Legal Framework on Non-Tariff Barriers in the Africa Continental Free Trade Area Agreement. "Strathmore Law Review" 6 (2021): 167.

¹⁰⁷ See Onwuka I and Ozegbe R (2020) African Continental Free Trade Area Agreement – Does the Facts Support the Benefits for Nigeria? "International Business Research" 13(7):236 June; Wapmuk, S and Ali, J. M (2020) The African Continental Free Trade Area (AfCFTA) and Regional Economic Integration: Prospects and Challenges. "Zamfara Journal of Politics and Development." Vol. 3, Issue 1 No. 1 and Okebie, O. P Jr. (2018) An Analysis of the African Continental Free Trade Area: A Case Study on Nigeria's Manufacturing Sector. "MSc dissertation," Erasmus University Rotterdam. Yewande Olapade and Chukwuka Onyekwena (2021) Quantifying the impact on Nigeria of the African Continental Free Trade Area.

and services.¹⁰⁸ Taking into consideration the key export competences.¹⁰⁹ An analysis has also been undertaken of the impact of the African Continental Free Trade Agreement on welfare and trade in Nigeria and South Africa.¹¹⁰

The AfCFTA holds great promise for Nigeria and the rest of Africa, according to a critical assessment of the successes and failures of past bilateral agreements with Nigeria.¹¹¹ Africa is on the road to becoming a global center of economic interests if adequate measures are put in place. But the growing competition from foreign businesses and dumping of inferior goods in Nigeria has raised concerns that between small and medium-sized enterprises there will be divergent feelings for each other.

The present literature on the African Continental Free Trade Agreement offers valuable insights into its historical evolution, legal foundations and expected economic impact as well as potential benefits and challenges for Nigeria. In implementing the AfCFTA and taking advantage of its potential, such insight may contribute to guiding the countries' institutions.

3.1.1 Economic benefits of AfCFTA to Nigeria

Onwuka Ifeanyi .O & Ozege Roseline.O¹¹² extrapolates with the aid of evidence, the potential economic "benefits", that the AfCFTA agreement avails Nigeria, including making

¹⁰⁸ See Okoro, Agwu Sunday & Yusuf Fadima & Momohsanni Adamu & Maria Abdulmajeed Bello Kumo & Joshua Adams Ndako, (2023) Analysis of the Potential Impact of the African Continental Free Trade Agreement (AfCFTA) on the Nigeria Economy, "International Journal of Research and Innovation in Social Science," vol. 7(9), pages 1498-1509, September and Chika P. Imoagwu, Joan N. Ozoh, Chinwe M. Madueke, Chidinma C. Mbah (2021) Impact of African Free Trade Policy (Agreement) on the Socio-Economic Development of Nigeria. "European Journal of Economic and Financial Research." Vol 4 No 4.

¹⁰⁹ See Sanjo O. M and Kehinde J. S (2012) Impact of general agreements on trade in services on the balance of payment of Nigeria. "European Journal of Business and Management". Vol 4 Nos. 8; Aigheyisi, O. S., and Iyoha, M. A (2022) Implications of the African Continental Free Trade Area for Nigeria's Economic Growth. "Economic and Financial Review," Volume 60/1. March

¹¹⁰ Gabriel Mhonyera and Daniel Francois Meyer (2023) The Impact of AfCFTA on Welfare and Trade: Nigeria and South Africa in Light of Core Export Competences. "Sustainability" 15(6)

¹¹¹ See Akinkugbe, Olabisi. (2017) Background: Towards a Critical Assessment of Canadian-Nigerian Bilateral Relations. "The Transnational Human Rights Review" 4 and Max Mendez-Parra, Neil Balchin, Linda Calabrese and Kingsley Onyeka (2019) Nigeria and UK bilateral trade and investment Diagnostic, identification of constraints and recommendations. August.

¹¹² Onwuka Ifeanyi Onuka & Ozege Roseline Oroboghae, (2020). African Continental Free Trade Area Agreement – Does the Facts Support the Benefits for Nigeria? "International Business Research," Canadian Center of Science and Education, vol. 13(7), pages 236-236, July

recommendations that if implemented has the potential to improve the tide of Nigeria's intercontinental trade relations in reference to AfCFTA. The authors portray Nigeria's initial hesitation towards signing the AfCFTA agreement alluding to ambiguity in the potential economic benefits of AfCFTA to Nigeria. In their opinion, Nigeria's hesitation, was illustrated by its initial resistance to sign the AfCFTA initially on March 23, 2019 at the African Union summit in Kigali Rwanda. Nigeria is Africa's largest market and its relevance to the viability of the AfCFTA is undeniable but its initial resistance to sign the treaty according to Ex-President, Muhammadu Buhari, was based on the fact that the envisaged benefits were yet to be ascertained. The government needed to intimate relevant stakeholders, such as the domestic businesses, the Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture; Manufacturers Association of Nigeria and the Nigerian Association of Small and Medium Enterprises before signing the treaty. In their opinion, Nigeria's eventual consent to sign the AfCFTA agreement at the African Union Summit in Niamey, July 7, 2019, boosted the potential success of AfCFTA, although Nigeria later ratify the AfCFTA agreement in 2020. Nigeria's influence benefits the AfCFTA, however, the aims to investigate whether the AfCFTA agreement is conversely economically beneficial to Nigeria remains debatable. Although, previous studies¹¹³ acknowledged the potential economic benefit of the AfCFTA to the African continent as a whole such as; boosting intra-regional trade, strengthening supply chains, etc, before accessing the economic benefit to Nigeria in particular. In their studies, they stated that; the AfCFTA agreement if successfully implemented would unite approximately 1.3 billion people, create a \$3.4 trillion economic bloc and usher in a new era of development in Africa. They also stated that Nigeria's active participation in the unified trade bloc would benefit; unemployed youths, itinerant traders, and promote easier mobility across the continent with reduced costs.

¹¹³ Ibid, no 107

While studying the perceived economic benefits of AfCFTA specifically to Nigeria as a country, it is a fact that for an undiversified and relatively under-developed economy like Nigeria, which relies heavily on oil exports, the benefits of AfCFTA, initially will be less apparent compared to countries like South Africa and Egypt. This was supported by Onuka & Oroboghae¹¹⁴ when both noted that the fact that Nigeria's major export commodity is crude oil and lubricants which has little or no market in the African continent would affect the immediate economic gains of the country within the AfCFA when compared to others in the short run.

The average tariff rates in Nigeria are higher when compared to that of her counterpart peer countries like; Ghana, Egypt and South Africa which will make Nigerian exported goods more expensive. Whereas as soon as the AfCFTA comes into effect, assented member states will need to drop 90 percent of their tariffs for imports from other member states, thereby depriving the partner states of the potential revenue from tariff on imports.

Furthermore, Nigeria in a comparative disadvantaged position in relation to the ease of doing business. The cost of production of goods in Nigeria is relatively high compared to other countries like South Africa and Egypt and also stifling regulatory practices prevail in Nigeria. This means that these countries with low production costs can afford to export goods into Nigeria and sell at lower prices. In reality, Nigeria's officials have expressed sentiments that the country could be flooded with low-priced goods from other countries, which could frustrate the efforts to revive moribund local manufacturing, agribusinesses and small and medium enterprises in the country.¹¹⁵

I cannot agree less that the current poor state of trade-related infrastructure, especially roads and maritime corridors, in Nigeria puts it in a disadvantaged situation. In terms of roads

¹¹⁴ Ibid, 108

¹¹⁵ See Chinelo Meg Egbunonu (2019) Nigeria's hesitation in joining the AfCFTA train: the real problems beneath. "Afronomics Law", June; The Conversation (2019) Debate: Nigeria isn't buying into Africa's free-trade area – but should. February; and MAN fears AfCFTA benefits may elude Nigeria as challenges intensify, "Businessday" May 2, 2022.

infrastructure, Nigeria has the lowest road-to-population ratio in Africa, which has negative implications for the movement of goods and people. Unfortunately, the current situation of Nigeria in terms of infrastructural development may not enable the country to benefit maximally in the continental market as envisioned by the AfCFTA agreement, unless the discrepancies are reconciled. It is hereby recommending that the Nigerian government should continue to maintain the present cautious approach and refrain from making further commitments on the AfCFTA. There is the need for the country to consciously diversify the economy away from crude oil and uncap several other exportable commodities of various zones in Nigeria. Nigeria should embark on massive infrastructural and trade-related development, improve the ease of doing business and diversify the economy in order to be in a vantage position to exploit the potential opportunities offered by the AfCFTA in the medium-to-long term horizon.

3.1.2 Impediments to international trade

Uwakwe and Uwoke¹¹⁶ discussed broadly the impediments to international trade in Nigeria and the African continent. The duo stated seemingly obvious obstacles such as lack of infrastructure, a weak manufacturing base and poor economic policies, which serve as impediments that Nigeria (and African states) can amend in order to occupy a better bargaining power in the international sphere. The impediments to international trade stated by Uwakwe and Uwoke¹¹⁷ simultaneously affects trade within the continent. They opined that Nigeria and Africa have played the beggar role at the international trade community for long while under-utilizing her vast natural and human resources. It is sacrosanct for Nigeria and indeed other African states to adopt the view that they can be equal partners with other developed countries rather than object of aids and exploitation.

¹¹⁶ Uwakwe, F. C. and, Nwoke, T (2019) A Critical Review of the Impediments to International Trade Agreement and Development in Nigeria. "Unizik Law Journal" Vol 15

¹¹⁷ Ibid, 107

Nagar and Paterson¹¹⁸ explored the trade relations between Nigeria and South Africa and opined that such relations have favoured the Nigerian side based on the value of exported goods. However, the apparent imbalance seems to be diffused by the ratio of successful South African companies trading in Nigeria. Hence, it appears that trading activities amongst African countries should factor economic presence of an African country in another country. However, Nigerian engagement in the relatively more sophisticated South African market has been more limited. While many South African companies were granted licenses to operate in Nigeria from 1999 and prospered thereafter, few Nigerian companies entered South Africa, and some that tried to do so failed (such as the Newspaper This Day).¹¹⁹

The strengthening of economic relations between Nigeria and South Africa has led to two airlines flying seven times a week between the two countries. South African companies have experienced some success in creating businesses that address all consumers – such as through its introduction of pre-paid telephone airtime in the 1990s, and, more recently, through innovative and highly successful online- and cellphone-based services that have brought banking to the previously unbanked.

3.2 Compliance and Enforcement Mechanisms

The foundation for compliance and enforcement in trade agreements with Nigeria rests upon well-defined legal principles established through bilateral agreements. These treaties and protocols delineate the rights and responsibilities of the contracting parties, laying the groundwork for a structured legal framework. Each party is obligated to uphold its commitments, thereby ensuring that both parties operate within a mutually beneficial

¹¹⁸ NAGAR, DAWN, and MARK PATERSON. “Nigeria/South Africa Economic Relations.” *The Eagle and the Springbok: Strengthening the Nigeria/South Africa Relationship*, Centre for Conflict Resolution, 2012, pp. 20–22. “JSTOR”,

¹¹⁹ BuaNews, (2009) SA, Nigeria to Push Trade, Investment, “SouthAfrica.info,” 17 November.

framework. These agreements are designed to foster cooperation, eliminate trade barriers, and enhance economic relations, thus providing a comprehensive basis for compliance.

At the international level, treaty obligations serve as a cornerstone for the governance of bilateral agreements. International law principles guide the formation and interpretation of these treaties, establishing a common understanding among nations. The commitment to uphold these treaty obligations is paramount for Nigeria, as it underscores the importance of adhering to international norms and standards in trade. The legal frameworks governing these treaties are essential for promoting a stable and predictable trading environment, encouraging investment, and facilitating economic growth. To bridge the gap between international commitments and domestic law, national legislation plays a crucial role in the implementation of bilateral agreements. Nigeria must align its domestic legal provisions with its international obligations to ensure consistency and coherence. This alignment is not only a legal necessity but also a means of fostering trust and reliability among trading partners. By enacting appropriate legislation, Nigeria can provide a robust legal foundation that supports compliance and enforcement, enhancing the overall effectiveness of its trade agreements.

The African Continental Free Trade Agreement (AfCFTA) introduces a comprehensive legal framework for trade among African nations. The AfCFTA is governed by its legislative framework, which includes the Agreement on the establishment of the AfCFTA and Protocols and Annexes.¹²⁰ Member States, including Nigeria, undertake to comply with these obligations under the Treaty.¹²¹ Governed by the Agreement on the establishment of the AfCFTA, along with its accompanying protocols and annexes, this framework outlines the obligations of member states, including Nigeria. The commitment to comply with these treaty obligations is critical for the success of the AfCFTA, as it aims to create a single continental

¹²⁰ Ibid, no 20

¹²¹ Muftau Ismail. (2023) Overview of the African Continental Free Trade Area (AfCFTA) and Challenges of Implementation: Nigeria and South Africa's Implementation as Case Studies. "PhD diss.", University of British Columbia

market for goods and services, thereby boosting intra-African trade. Nigeria's adherence to these obligations is essential for fostering regional integration and enhancing economic collaboration among member states. To effectively integrate the provisions of the AfCFTA into its legal framework, Nigeria must enact national legislation that reflects its commitments under the agreement. This integration involves a thorough examination of existing laws and regulations to identify necessary amendments or new enactments. By embedding AfCFTA provisions into its national legal system, Nigeria can create a cohesive and supportive environment for compliance. This legislative alignment is crucial for facilitating trade, attracting investment, and ensuring that Nigeria fully realizes the benefits of the AfCFTA.

Effective dispute resolution mechanisms are integral to the enforcement of bilateral agreements. Many such agreements incorporate provisions for arbitration and mediation, offering alternative avenues for resolving conflicts that may arise between contracting parties. These mechanisms provide flexibility and can often lead to quicker resolutions compared to traditional litigation, which can be protracted and costly. By facilitating amicable settlements, arbitration and mediation contribute to maintaining positive trade relationships and reducing tensions. Despite the benefits of alternative dispute resolution mechanisms, accessibility can be a significant challenge. Stakeholders, particularly those in local contexts, may encounter difficulties in navigating international arbitration procedures. This lack of familiarity can hinder their ability to effectively engage in dispute resolution, leading to potential inequities in access to justice. Ensuring that local stakeholders have the necessary knowledge and resources to participate in these processes is vital for fostering equitable access to dispute resolution mechanisms.

The AfCFTA on the other hand, introduces a centralized dispute resolution mechanism through the establishment of the African Arbitration Mechanism,¹²² This framework aims to

¹²² Akinkugbe Olabisi D. (2021) "Dispute Settlement under the African Continental Free Trade Area."

provide a structured approach for resolving disputes arising from the implementation of the agreement. While this centralized mechanism enhances consistency in dispute resolution across member states, it also raises concerns regarding accessibility. Member states with differing legal capacities may struggle to engage effectively with this centralized system, highlighting the need for tailored support and resources to ensure equitable participation.

Compliance with bilateral agreements is significantly influenced by the regulatory bodies designated by each contracting party. These bodies are responsible for overseeing the enforcement of trade terms, ensuring that both parties adhere to their obligations. The effectiveness of these regulatory bodies is contingent upon their independence, capacity, and expertise in managing complex trade issues. A robust regulatory framework is essential for promoting transparency, accountability, and compliance with bilateral agreements. Customs agencies play a pivotal role in monitoring and enforcing trade agreements, serving as the frontline entities in the implementation of trade regulations. Their capacity to handle intricate trade issues, including tariff classification, valuation, and compliance with import and export regulations, is crucial for ensuring adherence to bilateral agreements. By effectively monitoring trade flows and enforcing compliance, customs agencies contribute to the integrity of trade relationships and the overall success of bilateral agreements.

Within the framework of the AfCFTA, the AfCFTA Secretariat is tasked with coordinating activities among member states. However, the effectiveness of the Secretariat is closely tied to the cooperation and capacity of national regulatory bodies and customs agencies.¹²³ The success of the AfCFTA hinges on the ability of these entities to work collaboratively and efficiently. Challenges may arise due to inconsistencies in capacity among member states, potentially undermining uniform enforcement and compliance with the AfCFTA's provisions.

¹²³ Chitanda Yafika and Jose Luis Tavares Semedo. (2023) "AfCFTA National Implementation Committees: Scoping Options and Support Mechanisms."

Compliance and enforcement efforts in bilateral agreements face significant challenges stemming from divergent legal systems between contracting parties. These differences can complicate the interpretation and enforcement of treaty obligations, leading to potential disputes and misunderstandings. It is imperative for contracting parties to establish clear communication channels and mechanisms for addressing these discrepancies to ensure effective compliance and enforcement. The varying levels of commitment and capacity among regulators pose additional challenges to compliance and enforcement. Some states may lack the necessary resources, expertise, or political will to effectively enforce trade agreements, leading to inconsistencies in compliance. Addressing these capacity disparities is essential for fostering an environment conducive to compliance, as it ensures that all parties are equipped to fulfill their obligations under bilateral agreements.

The implementation of the AfCFTA is not without its challenges, particularly concerning the uniform application of its provisions across member states. Some countries may struggle to fully implement the agreed-upon measures due to institutional weaknesses, resource constraints, or political challenges. To address these implementation gaps, concerted efforts must be made to build the capacity of regulators and customs administrations, providing them with the tools and knowledge necessary for effective enforcement. These efforts should focus on equipping regulators and customs officials with the necessary skills, knowledge, and resources to navigate the complexities of trade agreements effectively. By investing in capacity building, member states can strengthen their regulatory frameworks, enhance compliance, and ultimately realize the full economic potential of the AfCFTA.¹²⁴

3.3 A Critical Analysis of the Institutional Frameworks

¹²⁴ Ibid, no 56

Plethora of authors recognize the diversity of perspectives and challenges within the African context¹²⁵. This acknowledgment is crucial for understanding the varied impacts AfCFTA may have on different nations. They also emphasize the need for continuous evaluation and adaptation, as a result of the evolving nature of international trade dynamics which requires ongoing scrutiny of AfCFTA's effectiveness and the ability to address emerging challenges. They highlight the pivotal role of institutions. While Akinkugbe,¹²⁶ stresses the need for effective AfCFTA institutions¹²⁷, Briggs underscores the importance of addressing domestic challenges to ensure private sector competitiveness¹²⁸.

3.3.1 Strengths of African Continental Free Trade Area

The African Continental Free Trade Area (AfCFTA) represents a significant milestone in the continent's economic integration efforts, offering a transformative framework for trade across African nations. The analysis conducted by Akinkugbe¹²⁹ provides a comprehensive examination of the institutional framework underpinning the AfCFTA. Key bodies such as the Assembly, the Council of Ministers, the Committee of Senior Trade Officials, and the Secretariat play pivotal roles in decision-making processes, ensuring that the operational structure of the AfCFTA is well-defined.¹³⁰ This detailed overview highlights the collaborative effort among member states to foster economic growth and integration, reflecting a commitment to collective progress and mutual benefits.

In addition to the institutional framework, the AfCFTA incorporates a dispute settlement mechanism that bears resemblance to that of the World Trade Organization (WTO). This aspect of the agreement is particularly interesting as it seeks to provide a structured approach

¹²⁵ Akinkugbe Olabisi D., Briggs Ine et al

¹²⁶ Akinkugbe Olabisi D. (2021) A Critical Appraisal of the African Continental Free Trade Area Agreement. "International Economic Law"

¹²⁷ See Ibid, no 126.

¹²⁸ Briggs Ine. (2021) Analysis of the African Continental Free Trade Agreement (AfCFTA): The Pros and Cons. "Journal of International Relations Security and Economic Studies" 1, no. 1: 1-10.

¹²⁹ Ibid, no 126

¹³⁰ Ibid, no 126

to resolving trade disputes that may arise among member states. Akinkugbe¹³¹ acknowledges the challenges posed by existing regional dispute settlement institutions in Africa, which raises critical questions regarding the effectiveness and relevance of the AfCFTA's mechanism. A robust dispute settlement system is crucial for instilling confidence among member states and facilitating smoother trade operations, thereby strengthening the overall integrity of the agreement.

The discourse surrounding the absence of supranational powers within existing Regional Economic Communities (RECs) is another thought-provoking element of Akinkugbe's analysis,¹³² He emphasizes the necessity of establishing supranational authorities that can effectively govern trade relations while balancing the sovereignty of African nations. This balance is essential for the successful implementation of the AfCFTA, as it allows for coherent policies and regulations that transcend national boundaries. The debate surrounding this issue underscores the complexity of governance within the AfCFTA framework and highlights the need for innovative approaches to address the limitations imposed by national interests.¹³³

Briggs contributes to the conversation by offering a realistic evaluation of the challenges facing the AfCFTA.¹³⁴ He points out significant obstacles, such as the continent's reliance on commodity exports, slower industrialization rates, and inadequate infrastructure. This pragmatic approach provides a nuanced understanding of the hurdles that lie ahead for the agreement's implementation. Acknowledging these challenges is crucial for formulating effective strategies that can enhance the competitiveness of African economies and facilitate a more robust trading environment.

¹³¹ Ibid, no 122

¹³² Sanni Oluwaseyi. (2020) Proposing a Constructivist Approach to Resolving Trade Conflicts under the African Continental Free Trade Area Agreement (AfCFTA): A Cross-Jurisdictional Analysis. "PhD diss.,"

¹³³ Ibid, no 126

¹³⁴ Ibid, no 128

Particularly in the context of Nigeria, concerns regarding the AfCFTA merit thorough legal scrutiny. The debate surrounding Nigeria's objections highlights the necessity for the incorporation of individual country perspectives into the broader continental legal framework. The potential for the AfCFTA to be exploited by non-African entities raises significant legal implications regarding the protection of local industries and economic interests. Addressing Nigeria's specific legal apprehensions is crucial for fostering a more inclusive legal dialogue among member states and ensuring that the AfCFTA is perceived as a beneficial legal framework across the continent.

The challenges faced by the Nigerian private sector further illuminate the legal complexities of the AfCFTA. High interest rates, pervasive corruption, and a generally unfavorable business climate pose substantial barriers to the effective implementation of trade under the agreement. Recognizing these legal challenges underscores the need for improved regulatory conditions that can support private sector growth and innovation. Establishing a conducive legal environment is paramount for maximizing the potential benefits of trade agreements, and addressing these issues is essential for the successful realization of the AfCFTA.

3.3.2 Critic of the African Continental Free Trade Agreement

The African Continental Free Trade Agreement (AfCFTA) represents a significant milestone in the quest for economic integration across the continent. However, a legal examination of the agreement reveals a fundamental concern: it is too early to ascertain the effectiveness of the institutions established under AfCFTA. Legal scholars must emphasize that assessing the efficacy of a newly implemented framework without a comprehensive understanding of historical precedents from other Regional Economic Communities (RECs) is legally flawed. Previous agreements, such as the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC), serve as cautionary tales,

highlighting how legal ambiguities and inadequate institutional frameworks have historically undermined regional integration efforts. Thus, a deeper legal analysis of these past failures is imperative to foresee potential challenges facing AfCFTA.

Moreover, Akinkugbe's focus on the alignment of informal norms with formal rules is critical;¹³⁵ however, the absence of concrete legal strategies to achieve this alignment is a notable limitation. From a legal perspective, the necessity for harmonizing informal practices with formal regulations cannot be overstated. The lack of specific frameworks for stakeholder engagement and legal capacity-building initiatives renders the analysis incomplete. Legal mechanisms that promote the integration of informal economic practices into formal trade laws must be explicitly articulated. By providing concrete legal examples or successful case studies from jurisdictions where such harmonization has occurred, the analysis would offer a more robust framework for understanding how AfCFTA can achieve its objectives.

Furthermore, while the challenges posed by AfCFTA are discussed in detail, the exploration of its potential benefits remains disproportionately brief. A legal critique should advocate for a more thorough examination of the expected positive impacts, as this could facilitate a more balanced understanding of the agreement. For instance, the anticipated increase in intra-African trade and economic diversification merits rigorous legal analysis. By referencing economic data or legal studies projecting GDP growth among member states post-AfCFTA, legal scholars can substantiate the argument for the agreement's potential benefits, thereby challenging the notion that the agreement is merely a theoretical construct without practical implications.

The complexity surrounding displacement concerns and the potential discontinuation of social and environmental policies presents additional legal challenges. The liberalization of trade may inadvertently exacerbate job losses, especially in sectors unable to compete with

¹³⁵ Ibid, no 122

cheaper imports. From a legal standpoint, this raises questions about the adequacy of social safety nets and labour protections within the context of AfCFTA. A more nuanced legal analysis is necessary to explore the relationship between trade liberalization and the rights of displaced workers. Incorporating case studies that illustrate how similar trade agreements have addressed these concerns would provide valuable insights into how AfCFTA might navigate these complex legal issues.

Moreover, the legal framework governing AfCFTA itself warrants scrutiny. The agreement must contend with existing legal structures within member states, which often vary significantly. Legal inconsistencies, particularly regarding customs regulations, trade tariffs, and intellectual property rights, pose substantial hurdles to effective implementation. A critical legal analysis should underscore the need for a unified legal infrastructure that standardizes these elements across member states, ensuring that the benefits of AfCFTA are uniformly accessible and enforceable. Without such legal cohesion, the risk of fragmentation increases, potentially undermining the agreement's objectives.

In addition to harmonization, the institutional capacity of AfCFTA to monitor compliance and address legal grievances is of paramount importance. Effective dispute resolution mechanisms are essential for maintaining the rule of law within the agreement. However, the existing framework may lack the requisite authority and resources to enforce compliance among member states. A comprehensive legal critique must advocate for the establishment of an independent adjudicative body endowed with the power to resolve disputes and impose penalties for non-compliance. Such an institution would not only enhance trust among member states but also bolster the rule of law, ensuring the longevity and integrity of the AfCFTA framework.

Together, these activities provide valuable information on the AfCFTA from an institutional point of view as well as practical challenges for individual countries. Authors have

contributed to the current discussions on the potential impact of AfCFTA in Africa's economy, as they recognize the complexities and uncertainties. In order to be successful in the implementation of this comprehensive agreement on trade across borders, continued research and a progressive approach towards addressing challenges will be essential.

In conclusion, the examination of the AfCFTA's strengths and challenges reveals a landscape that is both promising and legally intricate. While the agreement holds significant potential for fostering economic integration and growth across the continent, it is imperative to confront the myriad legal challenges accompanying its implementation. Through thoughtful legal discourse and the adoption of pragmatic legal strategies, African nations can work collaboratively to harness the full potential of the AfCFTA, thereby paving the way for a more prosperous and interconnected future grounded in the rule of law.

3.4 Gaps in the Literature

In the field of comprehensive impact assessments with respect to Nigeria's bilateral agreements, there is a clear gap in literature. In future research, key indicators such as trade volumes, jobs and overall economic growth could be examined in order to assess the real economic and social impact of these agreements. Also, a broad overview on bilateral agreements is often provided in existing literature, but there are no more detailed analyses of specific sectors. Analyzing the effectiveness of bilateral agreements in these areas could become more complex if research is conducted on specific industries or sectors, such as agriculture, manufacturing and technology.

The literatures have largely focused on immediate results of bilateral agreements, but there is a gap when it comes to understanding the sustainability of these arrangements over time. The sustainability of business partnerships could be explored in the coming research, taking into account factors like changing geopolitical circumstances and evolving investment priorities.

While there is a view in the literature that compliance mechanisms exist within trade agreements, research on their effectiveness has not been carried out. A more complex understanding would have been achieved through a thorough assessment of how well the mechanisms function, as well as whether they are dealing with issues related to noncompliance effectively.

Although there is a growing body of literature on the African Continental Free Trade Area, research needs to be carried out which specifically identifies and assesses the problems encountered during implementation. Policymakers will be informed and facilitated by the understanding of the obstacles to full implementation.

However, this study is focused on bilateral agreements with Nigeria within the scope of the African Continental Free Trade Area, taking into account the broad nature of international commercial agreements and the complexity of legal frameworks. Furthermore, the study focuses primarily on Nigeria's participation in the African Continental Free Trade Area (AfCFTA) and its bilateral agreements on a broader view with some selected countries analysis. While the AfCFTA encompasses the entire African continent, this study primarily examined the implications for Nigeria. The study thus identifies potential policy recommendations for optimizing Nigeria's trade relations and economic development strategies.

Chapter Four

Lessons from Other Jurisdictions

Comparative analysis based on the experiences of other jurisdictions involved in regional economic integration and bilateral agreements can be found in this section. The lessons learned from other jurisdictions can be of great value, contributing to deeper understanding of the dynamics and difficulties associated with such agreements.

Regional economic integration has emerged as a significant phenomenon in the global economic landscape, fostering cooperation and enhancing trade among neighboring countries. Among the various models of regional economic integration, the European Union (EU) and the United States-Mexico-Canada Agreement (USMCA) stand out for their distinct approaches and impacts on member states. This chapter aims to compare these two frameworks by examining their historical development, objectives, structural composition, and economic impacts. The lessons learned from the success and challenges of these models can be used to give valuable insight into potential paths and shortcomings for the African Continental Free Trade Agreement.

4.1 The European Union (EU)

The origins of the European Union can be traced back to the aftermath of World War II when European countries sought to prevent future conflicts through economic cooperation. In 1951, six nations—Belgium, France, Italy, Luxembourg, the Netherlands, and West Germany—

formed the European Coal and Steel Community (ECSC) to regulate their coal and steel industries.¹³⁶ This initiative laid the groundwork for deeper economic integration.

In 1957, the Treaty of Rome established the European Economic Community (EEC), aimed at creating a common market and promoting economic cooperation. Over the years, the EU evolved through successive treaties, most notably the Maastricht Treaty in 1992, which formally established the EU and introduced the concept of European citizenship.¹³⁷ The Lisbon Treaty, enacted in 2009, further streamlined the EU's institutional framework and enhanced its decision-making processes.¹³⁸

The primary objectives of the EU include:

1. **Economic Integration:** The EU aims to create a single market that allows for the free movement of goods, services, capital, and people across member states. This integration fosters competition and economic growth.¹³⁹
2. **Political Stability and Security:** The EU seeks to promote peace and stability within Europe, serving as a platform for conflict resolution and diplomatic dialogue among member states.¹⁴⁰
3. **Social Cohesion:** The EU is committed to enhancing social and economic cohesion among its members, reducing disparities in wealth and opportunity through regional development funds.¹⁴¹

¹³⁶ McCormick, J. (2011). *Understanding the European Union: A Concise Introduction*. New York: Palgrave Macmillan

¹³⁷ Nugent, N. (2017). *The Government and Politics of the European Union*. New York: Palgrave.

¹³⁸ Scharpf, F. W. (2018). *The Political Economy of Post-Socialist Transformation*. Berlin: Oxford University Press

¹³⁹ Pinder, J., & Usherwood, S. (2013). *The European Union: A Very Short Introduction*. Oxford: Oxford University Press.

¹⁴⁰ Begg, I. (2013). *The European Economy: A European Perspective*. London: Routledge.

¹⁴¹ European Commission, 2020

4. Environmental Sustainability: The EU prioritizes sustainable development and environmental protection, implementing policies aimed at combating climate change and promoting renewable energy.¹⁴²

The EU operates as a supranational entity with its own institutions, such as the European Commission, the European Parliament, and the European Court of Justice. These institutions possess legislative and judicial powers, enabling the EU to enact regulations that member states are obliged to implement. The EU has pursued a comprehensive approach to integration, extending beyond trade to encompass areas such as labour mobility, environmental policy, and social cohesion.¹⁴³ The establishment of the Eurozone further deepened economic integration by adopting a common currency, the Euro, among many member states, facilitating seamless transactions and financial cooperation.

The EU has fostered substantial economic growth and integration, with member states benefitting from increased trade and investment opportunities. The single market has allowed businesses to operate across borders with relative ease, contributing to the overall prosperity of the region.¹⁴⁴ However, disparities in economic development among member states have raised concerns about social cohesion and equitable growth.

Furthermore, the EU operates within a framework of shared sovereignty, where member states collaborate on collective decision-making and policy formulation.¹⁴⁵ This shared governance model fosters a sense of European identity and collective responsibility, although it has also led to tensions, particularly during crises such as the Eurozone debt crisis and the migration crisis.

4.2 The United States-Mexico-Canada Agreement (USMCA)

¹⁴² Ibid, no 141

¹⁴³ Ibid, no 137

¹⁴⁴ Bown, C. P. (2020). The WTO and the USMCA: A New Trade Agreement for North America. Peterson Institute for International Economics

¹⁴⁵ Treaty Maastricht. "European Union." Official Journal C 191 (1992): 29

The USMCA was officially signed on November 30, 2018, and came into effect on July 1, 2020. It was developed to replace NAFTA, which was implemented on January 1, 1994. NAFTA was established to eliminate trade barriers and increase economic cooperation among the United States, Canada, and Mexico. Over its 26 years of existence, NAFTA significantly boosted trade and economic growth in North America. However, it also faced criticism for contributing to job losses in certain industries, particularly in the U.S. manufacturing sector, due to the relocation of production to Mexico.¹⁴⁶

The renegotiation of NAFTA began in August 2017, driven by concerns from the U.S. government about trade imbalances, labour rights, and environmental protections. The outcome was the USMCA, which aimed to modernize trade relations among the three countries and address contemporary issues that had emerged since NAFTA's inception. The agreement introduced new provisions related to digital trade, labour standards, and environmental protections, aiming to create a more balanced and equitable trading environment.¹⁴⁷

The USMCA has several key objectives, reflecting the need for a comprehensive approach to regional economic integration:

1. Trade Liberalization: The agreement seeks to eliminate tariffs on goods traded between the U.S., Canada, and Mexico, facilitating smoother and more efficient trade flows. This objective aligns with the original goals of NAFTA while incorporating updates to address new economic realities.¹⁴⁸
2. Strengthening Labour Protections: The USMCA places a strong emphasis on labour rights and protections. It includes provisions aimed at improving working conditions and labour standards in all three countries. For example, the agreement mandates that

¹⁴⁶ Hufbauer, G. C., & Schott, J. J. (2005). *NAFTA Revisited: Achievements and Challenges*. Washington, D.C.: Institute for International Economics.

¹⁴⁷ Ibid, no 144

¹⁴⁸ U.S. Trade Representative. (2020). *United States-Mexico-Canada Agreement*. Retrieved from <https://ustr.gov>

Mexico implement reforms to strengthen labour rights, including the ability of workers to form independent unions. This objective reflects a growing recognition of the importance of fair labour practices in trade agreements.¹⁴⁹

3. Environmental Protections: The agreement includes commitments to uphold environmental standards and promote sustainable practices among member countries. This objective is essential in addressing environmental challenges that transcend national borders, such as climate change and biodiversity loss.¹⁵⁰

4. Digital Trade Facilitation: The USMCA incorporates provisions to promote digital trade, recognizing the growing significance of technology in the global economy. It establishes guidelines for cross-border data flow and prohibits data localization requirements, allowing businesses to operate more efficiently in the digital space. This objective addresses the needs of modern economies and encourages innovation and competitiveness.¹⁵¹

5. Agriculture and Dairy Sector Reforms: The agreement introduces reforms in the agricultural sector, providing greater access for U.S. dairy, poultry, and egg products into the Canadian market. It also maintains tariff-free access for agricultural products traded among the three countries, supporting farmers and promoting food security.¹⁵²

The USMCA is primarily a trade agreement without a centralized governing body. Instead, it relied on the national governments of member states to enforce its provisions. The lack of a supranational authority limited USMCA 's ability to address trade disputes effectively, often resulting in lengthy negotiations between member countries. USMCA focused primarily on trade liberalization, leaving many areas, such as labour rights and environmental standards, to be addressed at the national level. While NAFTA included provisions for labour and

¹⁴⁹ Ibid, no 144

¹⁵⁰ Ibid, no 148

¹⁵¹ Ibid, no 144

¹⁵² Ibid, no 148

environmental cooperation, these were less binding and often subject to political considerations. The subsequent USMCA sought to address some of these shortcomings by introducing stricter labour and environmental standards, reflecting a shift toward a more holistic approach to regional integration.

USMCA also contributed to economic growth, particularly in the manufacturing and agricultural sectors. Trade among the three countries increased significantly, resulting in job creation and higher GDP levels. However, the agreement faced criticism for contributing to job losses in certain industries, particularly in the United States, as companies relocated production to Mexico in search of lower labour costs.

NAFTA was characterized by a more transactional relationship among member states, with decisions often driven by national interests rather than collective governance. The lack of a strong institutional framework resulted in challenges when addressing trade disputes, as national governments were reluctant to compromise their sovereignty in favor of a centralized authority. The transition to the USMCA reflects an acknowledgment of the need for a more cooperative approach, with enhanced mechanisms for resolving disputes and addressing contemporary trade issues.

As the global economic landscape continues to evolve, lessons from these two models can inform future efforts toward regional integration. The importance of a strong institutional framework, the need for a holistic approach to integration, and the balance between national interests and collective governance are critical considerations for any successful regional integration initiative.

4.3 Future Trends in Bilateral and Regional Agreements

This section anticipates future trends in bilateral agreements, providing a forward-looking perspective that considers emerging global dynamics and evolving economic priorities.

4.3.1 Digital trade and e-commerce

The European Union's Digital Single Market (DSM) initiative aims to create an integrated market where digital goods and services flow seamlessly across member states. By harmonizing regulations and establishing mechanisms for cross-border data flow, the EU has facilitated the growth of e-commerce and digital trade across Europe. This integration has eliminated barriers to trade, enhanced competition, and created new opportunities for businesses to reach a wider audience. The DSM also promotes trust in digital services by standardizing privacy protections and cybersecurity measures across borders.¹⁵³ This cohesive regulatory environment has contributed to the rapid expansion of e-commerce across the EU, making it one of the most digitally integrated regions in the world.¹⁵⁴

Nigeria can draw significant lessons from the EU's DSM initiative, particularly in promoting digital trade within the African Continental Free Trade Area (AfCFTA). To create a favorable environment for digital trading between African countries, Nigeria should prioritize the harmonization of digital regulations with its trade partners.¹⁵⁵ This includes setting up a framework for cross-border data flows, ensuring data privacy, and establishing cybersecurity standards. By aligning with regional and international best practices, Nigeria can enhance digital commerce within Africa, boosting e-commerce opportunities and integrating with global digital supply chains. Furthermore, coordinated digital regulations will reduce transaction costs and increase confidence in Nigeria's digital economy, making it a more attractive destination for e-commerce investment.

¹⁵³ Havu Katri. (2017) The EU Digital Single Market from a Consumer Standpoint: How Do Promises Meet Means? "Contemporary Readings in Law and Social Justice" 9, no. 2: 146-183.

¹⁵⁴ Cardona Melisande, Nestor Duch-Brown, Joseph Francois, Bertin Martens and Fan Yang. (2015) The Macroeconomic Impact of E-Commerce in the EU Digital Single Market. No. 09. Institute for Prospective Technological Studies Digital Economy Working Paper,

¹⁵⁵ Azmeh Shamel, Christopher Foster and Jaime Echavarri. (2020) The International Trade Regime and The Quest for Free Digital Trade. "International Studies Review" 22, no. 3: 671-692

The United States-Mexico-Canada Agreement (USMCA) provides a comprehensive framework for digital trade, with a dedicated chapter on digital commerce. The agreement emphasizes the importance of cross-border data flows, explicitly prohibiting data localization requirements and other restrictive measures. By ensuring that businesses can transfer data freely across borders,¹⁵⁶ USMCA promotes digital innovation and growth in the region's e-commerce sector. The agreement also enhances the protection of personal data and intellectual property, creating a balanced regulatory environment that facilitates the growth of digital commerce while safeguarding consumer rights. This focus on digital trade provisions has contributed to a thriving North American digital economy, where businesses operate with minimal regulatory friction.

Nigeria can adopt a similar approach to the USMCA by incorporating specific chapters on digital trade in its trade agreements, both within Africa and with international partners. Such provisions would ensure the free flow of data across borders and avoid unnecessarily restrictive measures like data localization, which could stifle digital innovation. By fostering an open environment for digital commerce, Nigeria can encourage businesses to expand their operations in the e-commerce space. This would also strengthen Nigeria's position in the global digital economy by creating a competitive, innovation-friendly landscape that supports digital entrepreneurs and investors. Clear provisions on data transfer, cybersecurity, and intellectual property will help build a solid legal foundation for digital commerce in Nigeria. From the above, Nigeria can maximize her participation in the AfCFTA and other bilateral endeavours via the following which had been observed to have achieved successes upon implementation in other jurisdictions:

¹⁵⁶ Mitchell Andrew D. and Neha Mishra. (2019) Regulating Cross-Border Data Flows in a Data-Driven World: How WTO Law can Contribute. "Journal of International Economic Law" 22, no. 3: 389-416.

- a. Incorporate Digital Governance Clauses: The provisions on digital governance, data protection and privacy should be part of the bilateral agreements for creating a secure and reliable digital environment.
- b. Foster Interoperability: To facilitate seamless trade across borders, emphasize the importance of interoperability between digital systems and standards.
- c. Promote Digital Skills Development: Invest in initiatives to raise the level of digital literacy and skills, so as to ensure that workers are capable of taking advantage of this new economy.
- d. Establish Cross-Border Data Flow Mechanisms: Negotiate provisions allowing the free movement of information across borders and avoiding unnecessary localization requirements which may hamper digital trade.
- e. Encourage Innovation and Startups: Create frameworks that foster innovation, support the growth of start-ups and promote a thriving digital ecosystem.
- f. Collaborate on Cybersecurity: In order to protect the security of business and consumers in cyberspace, bilateral agreements should include provisions for joint efforts on cybersecurity.
- g. Facilitate Digital Payments: By introducing provisions allowing safe and effective transactions across borders, we can overcome the obstacles to digital payments.
- h. Participate in Digital Trade Networks: To strengthen international cooperation and exchange of information, explore the opportunities for participation in or establishment of digital trade networks.
- i. Regularly Update Agreements: Recognize the dynamic nature of these digital technologies and commit to regularly updating their bilateral agreements with a view to addressing new challenges and opportunities in this field.

In future agreements, Nigeria and its partner countries can deal with the complexities of digital trade and e-commerce by using lessons learned from successful jurisdictions. Countries will be able to succeed in the evolving digital economy through proactive measures that focus on digital governance, interoperability and collaboration on emerging issues.

4.3.2 Sustainable development and climate considerations

The European Union (EU) has long been a global leader in incorporating sustainable development and climate considerations into its trade agreements. One of the primary features of EU trade deals is the inclusion of strict environmental standards, alongside social responsibility clauses, that emphasize the need for sustainable practices.¹⁵⁷ These agreements require an assessment of the potential impact on the environment, ensuring that any trade relations do not compromise ecological integrity. For instance, the EU mandates compliance with the Paris Agreement and imposes restrictions on activities that contribute to deforestation or the degradation of biodiversity. Additionally, the EU emphasizes upholding labour rights, particularly in sectors vulnerable to exploitation due to liberalized trade. By embedding these provisions, the EU ensures that economic growth goes hand in hand with environmental sustainability and social justice.

Nigeria, in its trade negotiations with the EU, could greatly benefit from aligning its agreements with these principles. The incorporation of robust environmental impact assessments would help Nigeria protect its natural resources while expanding its trade relations. For example, explicit commitments to sustainable agricultural practices and renewable energy development could enhance Nigeria's appeal as a trade partner while addressing pressing issues like deforestation and carbon emissions. Moreover, promoting

¹⁵⁷ Chen Ying and Benedict Sheehy. (2022) Exporting Corporate Social Responsibility through Free Trade Agreements: Improving Coherence in the EU's New-Generation Trade and Sustainable Development FTAs. "Tex. Int'l Law" 58: 173.

labour rights and corporate social responsibility (CSR) can mitigate concerns over social inequality and poor working conditions in industries with significant trade exposure. Aligning with EU standards would not only meet global expectations but also advance Nigeria's domestic sustainable development agenda.

The United States-Mexico-Canada Agreement (USMCA), also underscores sustainable development through specific environmental and labour provisions. Unlike its predecessor, the USMCA introduced more comprehensive environmental commitments, including clauses aimed at reducing pollution, protecting marine environments, and promoting sustainable fisheries management. The agreement also includes mechanisms for monitoring compliance with environmental laws, thus ensuring that trade liberalization does not come at the expense of the environment. Furthermore, the USMCA recognizes the importance of renewable energy and sustainable resource management, which aligns the agreement with global efforts to combat climate change.

Nigeria could draw lessons from the USMCA, particularly regarding its focus on enforcement mechanisms for environmental standards. Adopting similar compliance frameworks in Nigeria's trade agreements would ensure that parties are held accountable for breaches of environmental or labour provisions. This could be particularly relevant in industries such as oil and gas, where environmental degradation remains a persistent issue. By enforcing stringent environmental regulations through trade agreements, Nigeria can reduce pollution, conserve its natural ecosystems, and contribute to global climate goals. Additionally, adopting provisions on renewable energy and sustainable resource use would help Nigeria transition towards a greener economy, thus positioning itself as a key player in the global push for sustainable development.

Discussed below are lessons and possible recommendations for Nigeria in areas of sustainable development and climate considerations as it relates to considerations for both AfCTA and bilateral agreements:

- a. Incorporate Environmental Impact Assessments: Ensure that, taking into account potential impacts on the environment of commercial activities, all agreements are subject to a complete environmental impact assessment.
- b. Labour Rights and Social Responsibility Clauses: Emphasize the principle of fair working conditions and social inclusion by integrating provisions on labour rights and social responsibility.
- c. Indigenous Rights Protection: Consideration should be given to provisions protecting the rights of natives and recognizing the importance of preserving culture and community well-being.
- d. Sustainable Development Goals Integration: Integrate trade agreements with the Sustainable Development Goals which emphasize their contribution to poverty reduction, environmental protection and social justice.
- e. Environmental Cooperation Agreements: Consider partnerships with trade partners to sign cooperation agreements on environmental protection, which will foster a common effort in tackling climate change, biodiversity loss and the rest of our environment challenges.
- f. Regular Monitoring and Reporting: Set up mechanism to regularly monitor and report on the environment and social impact of trade activities. This would ensure accountability and allow adjustments to be made where necessary.
- g. Public Consultation and Transparency: Strengthen transparency of the negotiation process and include mechanisms for consultation with interested parties. Therefore, it

is appropriate to take into account the views of all parties involved, inter alia civil society and communities at large, and

h. Capacity Building: Develop capacity-building initiatives aimed at ensuring knowledge and resources for the adoption of sustainable practice in local communities and businesses.

Nigeria can develop a holistic approach to integrating environmental sustainability and social responsibility into bilateral agreements, based on experience gained from other jurisdictions. This approach is compatible with sustainable development efforts around the world, contributing to a long-term economic and societal well-being of the country.

4.3.3 Adaptability to geopolitical shifts

Adaptability in response to geopolitical changes has become a critical factor for economic and trade agreements globally. The European Union (EU) provides a prime example of how regional organizations can adapt to shifting political, economic, and security landscapes. Through policies like the EU Neighbourhood Policy, the EU has demonstrated an ability to expand its influence and engage with neighboring countries despite evolving geopolitical challenges. This policy not only facilitates trade relations but also addresses changes in security and political alliances by fostering cooperation with non-EU countries.¹⁵⁸ Nigeria, in its efforts to boost economic integration and trade, can learn from this approach by incorporating flexibility into its trade agreements. Adjusting and expanding its existing agreements to reflect changing political and economic realities will be essential for Nigeria to remain relevant in the global market.

The United States-Mexico-Canada Agreement (USMCA) is another example of a nation's ability to renegotiate its trade framework in response to evolving geopolitical priorities. The

¹⁵⁸ Juncos Ana E. (2017) Resilience as the New EU Foreign Policy Paradigm: A Pragmatist Turn? "European Security" 26, no. 1: 1-18.

transformation of NAFTA into USMCA reflects the United States' strategic interest in addressing emerging challenges, such as digital trade and labour rights.¹⁵⁹ By revising key provisions to maintain the agreement's relevance, the U.S. demonstrated that adaptability is crucial for sustaining long-term trade relations.¹⁶⁰ For Nigeria, the lesson here is to ensure that trade agreements include review mechanisms and renegotiation clauses. Such provisions would allow for periodic assessments and revisions to align with shifting domestic and international priorities, ensuring the agreements remain effective and beneficial.

In response to changing geopolitical relationships, the UK's post-Brexit trade agreements represent a strategic shift¹⁶¹. The aim of these agreements is to build new trade partnerships and adapt them to the changing global position of the United Kingdom. In order to maintain relevance for its agreements, in an age of geopolitical change, Nigeria can take lessons from the United Kingdom's proactive pursuit of new partnerships.

In addition to review mechanisms, adaptability also requires a forward-looking approach to emerging global challenges. The geopolitical landscape is constantly evolving, particularly with regard to issues like climate change, digitalization, and labour market changes. By taking cues from how the EU, UK and USMCA have proactively addressed these concerns, Nigeria could future-proof its trade agreements. This could include provisions for new industries such as the digital economy, while ensuring that labour standards and environmental concerns are addressed. Adaptability, in this context, means staying ahead of trends and incorporating legal and regulatory frameworks that can accommodate new sectors and challenges.

¹⁵⁹ García María. (2023) Beyond Trade—The Politics of Trade Agreements and Interstate Competition and Geoeconomics as a Basis for EU and US Preferential Trade Agreements. in *The European Union and the Evolving Architectures of International Economic Agreements*. Singapore: Springer Nature Singapore. pp. 25-37

¹⁶⁰ Gantz David A. (2020) USMCA Provisions on Intellectual Property, Services, and Digital Trade. "Arizona Legal Studies Discussion Paper" 20-03 Mexico Center, Rice University's Baker Institute for Public Policy.

¹⁶¹ Whitman Richard G. (2019) The UK's European Diplomatic Strategy for Brexit and Beyond. "International Affairs" 95, no. 2: 383-404.

Moreover, as Nigeria seeks to expand its geopolitical influence, it must build strategic partnerships that allow for continuous engagement with changing international alliances. Just as the EU has forged relationships with neighboring countries through flexible policies, Nigeria can explore regional partnerships within Africa and beyond that allow for adjustments based on political and economic shifts. This could involve forming new alliances with countries or regions facing similar challenges or capitalizing on emerging markets in Africa through the African Continental Free Trade Agreement (AfCFTA). By aligning its trade policies with adaptable frameworks, Nigeria can enhance its capacity to respond to geopolitical shifts while fostering economic growth.

The lessons and strategies that can be adopted by Nigeria on its regional and bilateral agreements from the above will include the following:

- a. Diversify Trade Partnerships: To mitigate risks related to dependence on a single geopolitical power, set up a diversified portfolio of trade partnerships.
- b. Review Mechanisms: Establish review mechanisms in agreements that allow for regular assessments and updates to be carried out in line with evolving geopolitical priorities.
- c. Flexibility in Agreements: To deal with changes in geopolitical dynamics, such as the emergence of new world powers and a shift towards political alliances, priority should be given to flexibility within agreements.
- d. Adopt a Multilateral Approach: To enhance adaptability and to create a network of partnerships able to cope with geopolitical shocks, engage in multilateral agreements.
- e. Geopolitical Risk Assessments: To anticipate possible changes to international relations that could have a negative impact on trade agreements, conduct thorough geopolitical risk assessments.

f. Invest in Diplomacy and Dialogue: In order to handle geopolitical challenges and establish constructive relations, strengthen diplomatic efforts and maintain open channels of dialogue.

g. Monitor Global Trends: For a proactive adjustment of trade strategies and agreements, you need to be aware of world geopolitical trends and economic changes.

Nigeria can develop an adaptation strategy to ensure the resilience and importance of its bilateral and regional agreements in a fast changing global environment, based on lessons learnt from jurisdictions which have been able to cope successfully with political change.

Chapter Five

Findings, Conclusion and Recommendations

5.1 Summary of Findings

The study finds that the AfCFTA presents a comprehensive framework for trade liberalization and regional economic integration, which could enhance Nigeria's trade relations and economic development. However, there is a significant disparity between the provisions of Nigeria's existing bilateral agreements and the AfCFTA, particularly in areas such as rules of origin, tariff schedules, and institutional frameworks, among others. Harmonizing these frameworks will require legal reform and strategic alignment. Nigeria's legal system is positioned to support AfCFTA's implementation, but the lack of streamlined policies between bilateral and multilateral agreements may lead to legal and regulatory challenges, especially in relation to trade obligations with non-African countries.

The AfCFTA offers opportunities for Nigeria to expand its market access, diversify exports beyond oil, and foster intra-African trade. However, the thesis identifies several challenges, including Nigeria's reliance on import duties for revenue, which conflicts with the tariff liberalization required under AfCFTA. Other challenges include the enforcement of standards

and intellectual property rights, as bilateral agreements often contain less stringent provisions compared to AfCFTA.

The thesis evaluates the dispute resolution mechanisms embedded within AfCFTA and Nigeria's bilateral agreements. It finds that while AfCFTA offers a structured dispute resolution system, including arbitration and conciliation through its Dispute Settlement Body, most of Nigeria's bilateral agreements often lack clarity in this regard. AfCFTA's mechanisms are generally more effective and standardized compared to the existing Nigeria's bilateral agreements, which frequently leave room for ambiguities in resolving trade disputes. These weaknesses often limit Nigeria's ability to enforce trade obligations or challenge unfair practices within bilateral contexts.

Additionally, the absence of strong enforcement mechanisms in some bilateral agreements poses challenges for ensuring compliance with trade regulations. The AfCFTA's legal structure is more streamlined and cohesive compared to many of existing Nigeria's bilateral agreements, which often vary in scope and obligations.

The findings suggest that optimizing Nigeria's trade relations under AfCFTA requires a reevaluation of its bilateral agreements to ensure consistency in legal obligations. Aligning both frameworks will help Nigeria fully benefit from AfCFTA's regional integration goals while maintaining critical international partnerships.

This research contributes to academic scholarship by emphasizing the importance of strengthening Nigeria's domestic institutions to effectively implement AfCFTA provisions. This includes enhancing the capacity of trade-related bodies to negotiate and enforce agreements while ensuring compliance with both bilateral and multilateral trade commitments.

These findings emphasize the need for Nigeria to strategically navigate the legal complexities of its bilateral and multilateral agreements to fully benefit from AfCFTA. Harmonizing trade

frameworks, improving dispute resolution systems, and addressing infrastructural challenges are critical for maximizing Nigeria's economic potential under the AfCFTA framework. The results of the comparative legal analysis, which raised important questions on the effectiveness of these agreements in achieving their objectives, show that implementation and enforcement are uneven across different sectors.

5.2 Conclusion

This thesis provides a comparative legal analysis of Nigeria's bilateral agreements within the context of the African Continental Free Trade Area (AfCFTA). Through the study, it becomes clear that while AfCFTA presents significant opportunities for Nigeria's economic growth, regional integration, and trade diversification, there are also substantial legal and policy challenges that must be addressed.

The study demonstrates that the AfCFTA legal framework is more cohesive and structured compared to Nigeria's existing bilateral agreements, particularly regarding tariff liberalization, dispute resolution, and market access provisions. Harmonizing these agreements to align with AfCFTA is critical for Nigeria to fully capitalize on the benefits of the single continental market. The comparative analysis reveals inconsistencies in the rights, obligations, and enforcement mechanisms between bilateral agreements and AfCFTA, highlighting the need for legal reforms and stronger institutional capacity.

Moreover, this thesis identifies both opportunities and challenges within Nigeria's trade policy framework. While AfCFTA opens doors for increased intra-African trade and economic diversification, challenges such as tariff dependence, weak infrastructure, and non-tariff barriers pose significant hurdles. Addressing these challenges through legal and policy reforms will ensure that Nigeria not only complies with AfCFTA's obligations but also leverages its bilateral agreements for mutual economic gains.

The evaluation of dispute resolution mechanisms further underscores the need for Nigeria to strengthen its legal structures to resolve trade disputes effectively within both bilateral and multilateral frameworks. AfCFTA's well-defined dispute settlement body provides a strong foundation for legal coherence, but similar clarity is needed in bilateral agreements to ensure consistency in enforcement and compliance.

In conclusion, this thesis recommends that Nigeria should pursue a comprehensive strategy to align its bilateral agreements with AfCFTA, optimize its trade relations, and improve its institutional capacities. By doing so, Nigeria can position itself as a leading player in African trade, driving sustainable economic growth and benefiting from enhanced regional integration.

5.3 Recommendations

Building on the findings, the following recommendations are proposed to policymakers, legal practitioners, and stakeholders involved in Nigeria's trade policy formulation and implementation.

To the policymakers:

- a. Prioritize the harmonization of Nigeria's bilateral trade agreements with the provisions of AfCFTA. This will ensure that Nigeria's obligations under different agreements are consistent, preventing conflicts and ensuring smooth trade relations. Revisions to existing agreements should focus on aligning key elements like rules of origin, tariff schedules, and dispute resolution mechanisms.
- b. Strengthen dispute resolution systems by adopting the AfCFTA's structured dispute resolution framework as a model for bilateral agreements. This will improve Nigeria's ability to address and resolve trade disputes more effectively. Establishing a national

dispute settlement body aligned with AfCFTA's legal structures will help resolve conflicts and enforce agreements more consistently.

- c. Invest in building the capacity of Nigerian institutions responsible for trade policy implementation, such as customs authorities, trade regulatory bodies, and negotiating teams. This will ensure effective management of AfCFTA obligations and bilateral trade agreements. Training and resourcing these institutions will improve Nigeria's ability to benefit from regional trade opportunities.
- d. Develop infrastructure for trade facilitation which are essential for Nigeria to maximize the benefits of AfCFTA. Policymakers should prioritize the development of transport, logistics, and digital infrastructure that facilitates smoother cross-border trade. Enhanced ports, road networks, and electronic customs systems will reduce trade barriers and improve Nigeria's competitiveness in the regional market.
- e. Reform tariff policies by beginning to reduce Nigeria's reliance on import duties as a major revenue source, in line with AfCFTA's tariff liberalization goals. Alternative revenue-generation strategies, such as improving domestic tax collection, should be developed to support this transition. A gradual approach to tariff reductions will help mitigate economic disruptions while complying with AfCFTA commitments.
- f. Update Nigeria's Promote Intellectual Property Rights (IPR) laws to align with AfCFTA's standards, ensuring that both domestic and international businesses are protected. This will attract more investment and foster innovation within Nigeria. Establishing clear mechanisms for cross-border intellectual property enforcement will further strengthen Nigeria's trade position.
- g. Maintain ongoing dialogue with businesses, industry associations, and civil society groups to ensure that trade policies reflect the needs of key stakeholders. Inclusive policy formulation will lead to more effective trade strategies and ensure that

Nigeria's participation in AfCFTA benefits all sectors of the economy. Regular consultations will also allow for better monitoring and adjustment of trade policies.

To the legal practitioners:

- i. Take an active role in reviewing and amending Nigeria's existing bilateral trade agreements to ensure they align with AfCFTA provisions. This includes revising legal terms related to rules of origin, tariff structures, and market access, making them consistent with the obligations under AfCFTA. Practitioners should provide legal advice to both the government and businesses on navigating these dual frameworks.
- ii. Develop expertise in AfCFTA's Dispute Resolution Mechanisms by familiarizing themselves with AfCFTA's dispute resolution framework, which includes arbitration, mediation, and conciliation processes. This will enable them to represent clients effectively in trade disputes, whether within Nigeria or across Africa. They should also help companies understand how to initiate or respond to disputes under both AfCFTA and bilateral agreements, ensuring they can protect their interests.
- iii. Strengthen capacity and specialized expertise in international trade law, focusing on the legal dimensions of regional trade agreements like AfCFTA. Continuous professional development in this area will equip them to handle the complex legal challenges associated with multilateral and bilateral trade commitments, positioning them as key advisors for businesses and government bodies involved in trade policy.
- iv. Advocate for Intellectual Property Rights (IPR) Compliance by advising clients on how to navigate and enforce intellectual property rights under both AfCFTA and bilateral trade agreements. They should ensure that businesses are compliant with cross-border IPR regulations and assist in enforcing these rights where necessary. This will protect Nigerian innovators and help businesses avoid legal disputes regarding intellectual property.

- v. Support and actively participate in trade-related litigation, arbitration, and mediation, especially where trade disputes arise under AfCFTA or bilateral agreements. They should develop expertise in representing both public and private entities in these forums, ensuring they can address issues related to non-tariff barriers, customs duties, and contract enforcement under the terms of these agreements.
- vi. Collaborate on capacity building for Nigerian trade institutions by offering legal training and support. This includes advising regulatory bodies on compliance with AfCFTA provisions, strengthening the legal framework for trade, and helping to draft clearer regulations and policies that facilitate Nigeria's trade relationships.
- vii. Advise on policy and legislative reforms by collaborating with policymakers in reviewing and reforming trade-related legislation to ensure that it aligns with Nigeria's commitments under AfCFTA and bilateral agreements. They should offer recommendations for legislative updates and assist in drafting trade laws that reflect international best practices and protect Nigeria's trade interests.

To other stakeholders including government agencies, trade associations, and private sector representatives involved in Nigeria's trade policy formulation and implementation:

- a. Work together to ensure a cohesive approach to Nigeria's trade policy under AfCFTA. Collaboration between public and private sectors will help identify common challenges, share resources, and align strategies that benefit all parties involved in Nigeria's trade landscape. Regular multi-stakeholder forums should be established to discuss policy developments and trade-related challenges.
- b. Foster public-private partnerships (PPP) to improve trade-related infrastructure and capacity building. By leveraging resources from both the public and private sectors, Nigeria can enhance its logistical networks, streamline customs processes, and implement digital solutions that facilitate cross-border trade. PPPs will also help in

developing innovative solutions for trade facilitation, particularly in areas like transportation, storage, and e-commerce platforms.

- c. Advocate for policy consistency and harmonization between Nigeria's bilateral agreements and AfCFTA provisions. This includes advocating for legal and policy reforms that reduce conflicts between Nigeria's existing trade obligations and those under AfCFTA. Consistent trade policies will reduce confusion for businesses, enhance predictability, and facilitate smoother implementation of trade agreements. Stakeholders should actively engage with the government to streamline trade policies that reflect AfCFTA goals while supporting Nigeria's bilateral relations.
- d. Prioritize capacity building for trade institutions, businesses, and regulators to ensure they are equipped to implement and benefit from AfCFTA. This includes providing training on trade negotiation, compliance with international trade rules, and dispute resolution mechanisms. By investing in capacity building, Nigeria's trade actors will be better prepared to navigate the complexities of both bilateral and multilateral trade agreements.
- e. Increase awareness of the opportunities and challenges posed by AfCFTA, particularly for Small and Medium Enterprises (SMEs). Public campaigns, workshops, and training programs should be organized to help businesses understand how they can take advantage of AfCFTA's provisions, such as market access and reduced tariffs. Ensuring that all sectors of the economy, particularly SMEs, are well-informed about AfCFTA is crucial to maximizing the benefits of regional integration.
- f. Advocate for the development of trade-related infrastructure, including roads, ports, and digital platforms. These infrastructure improvements are critical for enhancing Nigeria's trade competitiveness under AfCFTA. Efficient transportation networks and border management systems will reduce trade costs and delays, allowing businesses

to access regional markets more easily. Stakeholders should work with the government to identify priority areas for infrastructure investment and facilitate public-private partnerships to accelerate development.

- g. Support and advocate for the establishment of a strong and accessible dispute resolution framework that aligns with AfCFTA's provisions. This will provide Nigerian businesses with a clear and reliable mechanism for resolving trade disputes, ensuring that they are protected from unfair practices and can confidently engage in cross-border trade. Stakeholders should engage legal experts to ensure that dispute resolution systems are fair, transparent, and efficient.
- h. Monitor the implementation of trade policies to assess their effectiveness and impact on Nigeria's economy. A feedback mechanism should be established, allowing businesses and other actors to provide input on trade policy execution and highlight challenges encountered. Continuous feedback from stakeholders will help the government make necessary adjustments to policies and address emerging issues in a timely manner.
- i. Focus on strengthening regional cooperation with other African countries under AfCFTA. Building strategic partnerships with other AfCFTA member states will help Nigeria maximize the benefits of the agreement, create new opportunities for Nigerian businesses, and enhance the country's influence in shaping regional trade policies.

The implementation of these recommendations will help to ensure that Nigeria's bilateral agreements and the African Continental Free Trade Area are implemented in an equitable manner, fostering a favorable environment for regional economic integration.

5.4 Contributions to Knowledge

This thesis makes several important contributions to the field of international trade law, particularly within the context of Nigeria's participation in the African Continental Free Trade Agreement (AfCFTA) and its bilateral trade agreements. The study addresses key gaps in the literature on legal harmonization, trade policy formulation, and regional economic integration in Africa. Its contributions are as follows:

- i. **Comparative Legal Analysis of AfCFTA and Bilateral Agreements:** The thesis provides a detailed comparative legal analysis of AfCFTA and Nigeria's bilateral trade agreements, highlighting the complexities involved in aligning multilateral and bilateral frameworks. This analysis fills a gap in existing scholarship by offering insights into how African countries like Nigeria can navigate the challenges posed by multiple trade agreements. By examining the legal provisions of AfCFTA and comparing them with Nigeria's bilateral treaties, the thesis deepens the understanding of legal compatibility and conflict resolution in the context of trade.
- ii. **Legal Frameworks and Policy Implications for Nigeria's Trade Relations:** The research contributes to knowledge by assessing the legal implications of AfCFTA for Nigeria's trade relations and economic development. It provides policymakers and legal practitioners with a clear understanding of the legal frameworks underpinning both AfCFTA and bilateral agreements. The thesis offers practical insights into how these agreements impact Nigeria's trade policy and the broader African trade landscape. It identifies the opportunities and challenges that Nigeria faces in harmonizing its legal obligations and offers recommendations for aligning trade policy with AfCFTA objectives.
- iii. **Exploration of Dispute Resolution Mechanisms:** The thesis adds significant value to the discourse on trade law by examining the effectiveness of dispute resolution mechanisms within AfCFTA and bilateral agreements. The study offers a thorough

review of the dispute settlement provisions under AfCFTA and contrasts them with the often ambiguous mechanisms present in bilateral treaties. This contribution enhances the understanding of how African countries can strengthen their legal frameworks to ensure fair and efficient resolution of trade disputes, which is critical for promoting trade stability and investor confidence.

- iv. Insight into Regional Economic Integration and International Trade Law: By situating Nigeria's trade policies within the broader framework of regional integration, the thesis contributes to the scholarship on African economic development and international trade law. It highlights the potential of AfCFTA to enhance regional trade, increase economic diversification, and boost intra-African commerce. The study's focus on the legal dimensions of regional integration enriches academic discourse, offering a blueprint for how African countries can structure their trade policies to achieve meaningful economic collaboration and growth
- v. Policy Recommendations for Nigeria's Trade Strategy: One of the key contributions of the thesis is its actionable policy recommendations for Nigeria's trade policymakers, legal practitioners, and trade-related institutions. The recommendations on harmonizing legal frameworks, improving dispute resolution, and building institutional capacity provide practical steps for optimizing Nigeria's trade strategy in the AfCFTA era. These recommendations not only benefit Nigeria but also offer a roadmap for other African nations facing similar challenges in aligning their trade obligations under multiple frameworks.
- vi. Advancing Academic Scholarship on AfCFTA and Bilateral Agreements: This thesis contributes to the growing body of scholarship on AfCFTA and its role in shaping Africa's economic future. By analyzing how Nigeria, one of the largest economies in Africa, navigates the intersection between bilateral agreements and AfCFTA, the

study provides valuable insights that can be applied to similar contexts across the continent. The thesis advances academic understanding of how regional trade agreements and bilateral treaties can coexist and how countries can maximize the benefits of both frameworks for economic growth.

vii. Bridging the Gap between Law and Policy in Trade Relations: The study bridges the gap between legal theory and practical policy formulation in trade relations. By combining legal analysis with policy recommendations, the thesis provides a holistic view of how legal frameworks directly impact economic outcomes. This interdisciplinary approach contributes to both the legal and economic fields, offering a practical resource for stakeholders involved in trade policy formulation, including government bodies, international organizations, and legal professionals.

In conclusion, the thesis contributes to the broader discourse on international trade law, regional integration, and economic development in Africa, with a specific focus on Nigeria's role in AfCFTA and bilateral trade relations. Its insights on legal harmonization, dispute resolution, and policy alignment offer a valuable resource for scholars, policymakers, and legal practitioners working to enhance Africa's trade and economic integration.

5.5 Directions for Future Research

The study provides an opportunity for further research into the specific aspects of the African Continental Free Trade Area and Nigeria bilateral agreement. The impact of these agreements on certain sectors, the role played by technology to facilitate cross border trade as well as the implications for society and the environment in terms of enhanced economic integration are areas that merit continued examination. The findings and contributions of this thesis open several avenues for future research on the subject of the African Continental Free Trade Agreement (AfCFTA) and Nigeria's bilateral agreements.

Future research could investigate the legal implications of AfCFTA on specific sectors of the Nigerian economy, such as agriculture, manufacturing, and services. This research could assess how the legal provisions of AfCFTA, including tariff reductions and non-tariff measures, influence sector-specific legislation and compliance requirements. A comparative legal study could examine how other African countries have successfully harmonized their bilateral trade agreements with AfCFTA. This would provide insights into different legal frameworks and practices that facilitate trade, allowing for a better understanding of effective strategies and potential pitfalls in aligning legal obligations.

Furthermore, there exists the opportunity of conducting longitudinal studies that track changes in Nigeria's trade law and policy in response to the implementation of AfCFTA would be valuable. Such studies could analyze the legal effectiveness and enforcement of new trade regulations over time, as well as their impact on trade performance and compliance. Further legal research could explore the non-tariff barriers that hinder trade under both AfCFTA and bilateral agreements. This could involve examining the legal frameworks governing Non-Tariff Barriers (NTBs), their impact on trade flows, and potential legal remedies to facilitate smoother trade operations.

Research may be conducted on the legal frameworks supporting small and medium enterprises (SMEs) within the context of AfCFTA and Nigeria's bilateral agreements. Understanding how legal provisions can empower SMEs to engage effectively in international trade would be vital for policy development. Future studies could explore the legal implications of stakeholder engagement in the formulation of trade policies. Analyzing how various stakeholders, including governmental and non-governmental entities, influence trade law and policy could reveal the importance of inclusive legal frameworks in achieving equitable trade outcomes.

Investigating how environmental law and social considerations are integrated into Nigeria's trade agreements, especially under AfCFTA, would provide valuable insights into the intersection of trade and environmental sustainability. Research could focus on assessing the legal mechanisms that support sustainable development goals (SDGs) within the trade framework. This may extend to a thorough examination of the existing legal frameworks governing Nigeria's trade agreements could shed light on their effectiveness in facilitating compliance with both bilateral and multilateral obligations. Researchers could explore how legal standards are established and enforced in practice, identifying gaps and areas for reform. These directions for future research will enhance the understanding of AfCFTA and Nigeria's bilateral agreements, providing valuable insights for policymakers, legal practitioners, and stakeholders as they navigate the complexities of international trade and regional integration.

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Appendix I

Summary Of Nigeria's Bilateral Agreements As At May 2024

No.	Title of agreement	Short title	Parties	Status	Date of signature	Date of entry into force	Date of termination	Amendment protocols	Side instruments
1		Algeria - Nigeria BIT (2002)	Algeria; Nigeria;	Signed	14/01/2002			No	No
2	Agreement for the Promotion and Protection of Investment between the Republic of Austria and the Federal Republic of Nigeria	Austria - Nigeria BIT (2013)	Austria; Nigeria;	Signed	08/04/2013			No	No
3		Bulgaria - Nigeria BIT (1998)	Bulgaria; Nigeria;	Signed	21/12/1998			No	No
4	Canada-Nigeria Foreign Investment Promotion and Protection Agreement (FIPA)	Canada - Nigeria BIT (2014)	Canada; Nigeria;	Signed	06/05/2014			No	No
5		China - Nigeria BIT (1997)	China; Nigeria;	Terminated	12/05/1997		2/18/2010. Replaced by new treaty	No	No
6		China - Nigeria BIT (2001)	China; Nigeria;	In force	27/08/2001	18/02/2010		No	No
7		Egypt - Nigeria BIT (2000)	Egypt; Nigeria;	Signed	20/06/2000			No	No
8		Ethiopia - Nigeria BIT (2004)	Ethiopia; Nigeria;	Signed	19/01/2004			No	No

No.	Title of agreement	Short title	Parties	Status	Date of signature	Date of entry into force	Date of termination	Amendment protocols	Side instruments
9		Finland - Nigeria BIT (2005)	Finland; Nigeria;	In force	22/06/2005	20/04/2007		No	No
10		France - Nigeria BIT (1990)	France; Nigeria;	In force	27/02/1990	19/08/1991		No	No
11		Germany - Nigeria BIT (2000)	Germany; Nigeria;	In force	28/03/2000	20/09/2007		No	No
12		Italy - Nigeria BIT (2000)	Italy; Nigeria;	In force	27/09/2000	22/08/2005		No	No
13		Jamaica - Nigeria BIT (2002)	Jamaica; Nigeria;	Signed	05/08/2002			No	No
14		Korea, Republic of - Nigeria BIT (1998)	Korea, Republic of; Nigeria;	In force	27/03/1998	01/02/1999		No	No
15		Kuwait - Nigeria BIT (2011)	Kuwait; Nigeria;	Signed	23/03/2011			No	No
16		Morocco - Nigeria BIT (2016)	Morocco; Nigeria;	Signed	03/12/2016			No	No
17		Netherlands - Nigeria BIT (1992)	Netherlands; Nigeria;	In force	02/11/1992	01/02/1994		No	No
18		Nigeria - Romania BIT (1998)	Nigeria; Romania;	In force	18/12/1998	03/06/2005		No	No
No.	Title of agreement	Short title	Parties	Status	Date of signature	Date of entry into	Date of termination	Amendment protocols	Side instruments

						force			
19		Nigeria - Russian Federation BIT (2009)	Nigeria; Russian Federation;	Signed	24/06/2009			No	No
20		Nigeria - Serbia BIT (2002)	Nigeria; Serbia;	Signed	01/06/2002			No	No
21	Nigeria-Singapore BIT	Nigeria - Singapore BIT (2016)	Nigeria; Singapore;	Signed	04/11/2016			No	No
22	Agreement between the Government of the Republic of South Africa and the Federal Republic of Nigeria for the Reciprocal Promotion and Protection of Investments	Nigeria - South Africa BIT (2000)	Nigeria; South Africa;	In force	29/04/2000	27/07/2005		No	No
23		Nigeria - Spain BIT (2002)	Nigeria; Spain;	In force	09/07/2002	19/01/2006		No	No
24		Nigeria - Sweden BIT (2002)	Nigeria; Sweden;	In force	18/04/2002	01/12/2006		No	No
25		Nigeria - Switzerland BIT (2000)	Nigeria; Switzerland;	In force	30/11/2000	01/04/2003		No	No
26		Nigeria - Taiwan Province of China BIT (1994)	Nigeria; Taiwan Province of China;	In force	07/04/1994	07/04/1994		No	No
No.	Title of agreement	Short title	Parties	Status	Date of signature	Date of entry into force	Date of termination	Amendment protocols	Side instruments

27		Nigeria - Turkey BIT (1996)	Nigeria; Türkiye;	Signed	08/10/1996			No	No
28		Nigeria - Turkey BIT (2011)	Nigeria; Türkiye;	Signed	02/02/2011			No	No
29		Nigeria - Uganda BIT (2003)	Nigeria; Uganda;	Signed	15/01/2003			No	No
30		Nigeria - United Arab Emirates BIT (2016)	Nigeria; United Arab Emirates;	Signed	18/01/2016			No	No
31		Nigeria - United Kingdom BIT (1990)	Nigeria; United Kingdom;	In force	11/12/1990	11/12/1990		No	No
32		Nigeria - United States BIT (2020)	Nigeria; USA;	In force	2020	2020		No	No

Lead City University

Biodata and Curriculum Vitae

Full Name: Wasiu Adeyemo Babalola

Programme: LLM

Current Position:

Deputy Vice Chancellor & Professor of Hotel Management & Tourism at Atiba
University, Oyo

Area of Expertise:

Hospitality and Tourism Management

Hospitality and Tourism Law

Forensic Accounting and Audit

Hospitality and Tourism Accounting

International Business and Trade

Education:

PhD in Hospitality and Tourism Management

PhD in Forensic Accounting and Audit

LLM in Estate Planning and Management

LLB

A. PERSONAL DATA

1. Name BABALOLA Wasiu Adeyemo
2. Date and place of Birth March 3, 1977; Lagos, Nigeria
3. Nationality Nigerian
4. State of Origin Oyo State
5. Permanent Home Address 21/23 Alfa Nda Street, Ilasa, Lagos, Nigeria
6. Marital Status Married
7. Wife Mrs Suwebat Kikelomo Babalola nee Aberejo
8. State of Origin Lagos State
9. Number of Children and their ages 4 – 18, 15, 11 and 6 years respectively
10. Present Position: Professor / DVC / Dean
11. Present Salary Grade Level: UASS 07
12. Faculty: Social & Management Sciences
13. Department: Hospitality & Tourism Management

B. EDUCATIONAL BACKGROUND

1. Educational Institutions Attended with Dates:

- i. Lead City University, Ibadan, Oyo State, Nigeria; 2018 – till date
- ii. Charisma University, Turks and Caicos Islands, British West Indies; 2013 – till date
- iii. Sherwood University, Glendale, CA, USA; 2004 - 2006
- iv. Ambrose Alli University, Ekpoma, Edo, Nigeria; 2002 – 2004
- v. French Centre, Ministry of Education, Awka, Nigeria; 2001
- vi. Lagos State Polytechnic, Lagos, Nigeria; 1995 – 2000

2. Academic and Professional Qualifications

- i. Doctor of Philosophy (PhD), Hospitality Management
- ii. Doctor of Philosophy (PhD), Forensic Accounting & Audit
- iii. Master of Laws (LL. M), Estate Planning & Management Specialisation
- iv. Masters of Science (MSc), Human Resources Management
- v. M.B.A., Business Administration
- vi. Bachelors of Art (BA), Hospitality & Tourism Management – First Class
- vii. Bachelor of Laws (LL. B) Law - First Class
- viii. Bachelor of Science, Accounting
- ix. Higher National Diploma (HND), Catering & Hotel Management
- x. National Diploma, Catering & Hotel Management
- xi. Certified National Accountant (CNA)
- xii. Diploma, Marketing (National Institute of Marketing of Nigeria - NIMARK)
- xiii. VICBHE Certificate – Modules 1 – 7, 9

3. Other Distinctions and Awards with dates

- a) Awards
 - i. 2022 – Exemplary Participant & Life Learning Award, VICBHE / NOUN
 - ii. 2022 – Vice Chancellor Honour Roll, Lead City University, Ibadan, Nigeria
 - iii. 2022 – Best Graduating Student – Male in Code, Conduct & Customer Service; Lead City University, Ibadan, Nigeria
 - iv. 2000 - Rector's Honour Roll, Lagos State Polytechnic, Lagos, Nigeria
 - v. 2000 - Best Graduating Student (HND) - School of Technology, Lagos State Polytechnic, Lagos, Nigeria

- vi. 2000 - Best Graduating Catering and Hotel Mgt. Student (HND), Lagos State Polytechnic, Lagos, Nigeria
- b) National Awards:
 - i. August 2024 – Top 100 Tourism Professionals in Africa Award, African Magazine Quarterly
 - ii. Dec 2021 – Hotel Man of the Year in Nigeria 2021, African Magazine Quarterly
 - iii. 2018 – Top 100 Tourism Professionals in Nigeria Award, Abuja, Nigeria
 - iv. Aug 2017 – National Winner, Nigeria (Tourism, Hospitality & Leisure Sector) CEO Global
- c) International Awards:
 - i. Dec 2021 – Tourism and Hospitality Educator of the Year (West Africa), African Travel Times Awards
 - ii. Dec 2017 – Continental Champion (Tourism, Hospitality & Leisure Sector) CEO Global
 - iii. Aug 2017 – Regional Winner, West & Central Africa (Tourism, Hospitality & Leisure Sector) CEO Global
 - iv. 2009 - Silver Award, Best Tourism Project, Middle East & North Africa Travels Award (MENA)

C. WORK EXPERIENCE WITH DATES:

1. Work experience outside the University System with dates

- i. Sub-group Team Lead, Policy Review & New Policy Development on Tourism and Hospitality Industries Thematic Group, Nigeria Economic Summit Group (NESG). – November 2021 - 2022
- ii. Consultant for Curriculum Development on Bakery & Confectionary, Lagos State Employability Support Project in conjunction with UNDP, Lagos, Nigeria – 2020 – June 2021
- iii. Committee Member,
 - ISO/TC228/WG 14, “Accessible Tourism”
 - ISO/TC228/WG 15, “Restaurant”
 - ISO/TC228/WG 16, “Accessible Tourism”
 - ISO/TC228/WG 17, “Tourist Visit”
 - ISO/TC228/WG 18, “Measures to Reduce the Spread of the Covid-19 in the Tourism Industry”
 International Standards Organization (ISO), - Feb 2020 till date
- iv. Lead Reviewer, Diagnostic Review of The Lagos State Tourism Master Plan and Adaptation for Ease of Implementation (unpublished) - Federation of Tourism Association of Nigeria, Lagos State Chapter
- v. Technical Committee Member, “National Standard on Health & Safety Measure for Post Pandemic (Covid-19 in Tourism & Hospitality Establishments”, Standard Organization of Nigeria (SON); - 2020 till date
- vi. Managing Director for West Africa, Swiss International Hotels & Resorts Switzerland - 2012 – July 2017

2. Work Experience in the Universities with dates:

- a. Professor (Full) - December 2020 till date
DVC, Academics – 2023 till date
Dean, Faculty of Social & Management Sciences – Jan 2023 till date

Dean, Faculty of Arts, Management & Social Sciences – April 2021 – Jan 2023
Ag Vice Chancellor – June, August - September 2024
- September 2023
- September 2022
- September 2021

Associate Professor - December 2017 - November 2020

Atiba University Oyo, Oyo State, Nigeria;

- b. Professor (Visiting)
 - i. Rome Business School
 - ii. Kwara State University, Malete, Kwara State, Nigeria;
 - iii. Lead City University, Ibadan, Oyo State, Nigeria;
 - iv. Lagos State University of Science & Technology, Ikorodu, Lagos State, Nigeria;
- c. External Examiner at University Level (Postgraduate & Undergraduate Level)
 - i. Elizade University, Ilara Mokin, Ondo State.
 - ii. Kwara State University, Malete, Kwara State
 - iii. University of Port Harcourt, Nigeria.

D. MEMBERSHIP OF PROFESSIONAL BODIES

- i. Fellow Chartered Certified Forensic Accountant & Auditor, Chartered Institute of Forensics and Certified Fraud Investigators of Nigeria (FCCrFA)
- ii. Fellow, Institute of Hospitality UK (FIH)
- iii. Fellow, Nigerian Hotel and Catering Institute (FNHCI)
- iv. Fellow, Institute of Tourism Professionals in Nigeria (FITPN)
- v. Fellow, Hospitality & Tourism Mgt Association of Nigeria (FHATMAN)
- vi. Fellow, Institute of Management Consultants (FIMC)
- vii. Fellow, Certified Board of Administrators of Nigeria (FCBAN)
- viii. Fellow, Association of Tourism & Hospitality Consultants Association of Nigeria (FTHC)
- ix. Fellow, Association of Forensic Accounting Researchers (FFAR)
- x. Fellow, Institute of Personality Development & Customer Relationship Management (FIPD-CRM)
- xi. Member, Association of National Accountants of Nigeria (ANAN), CNA
- xii. Member, National Institute of Marketing of Nigeria–NIMARK (MNMA), RM
- xiii. Associate Member, Nigerian Institute of Management (AMNIM)
- xiv. Associate, Chartered Institute of Arbitrators (UK), ACI Arb

E. PUBLICATIONS

1. Thesis/ Dissertations:

- i. “The United Nations Convention for the International Sale of Goods (CISG): Matters arising for Nigeria” an unpublished LL. M Thesis. Charisma University. 2023
- ii. “The Influence of Corporate Governance Mechanism on Corporate Tax Management of the Nigerian Consumer Goods Industry; an unpublished BSc Thesis”. Charisma University. 2022
- iii. “A Comparative Evaluation of Provocation as a Defense in Criminal Proceedings in Nigeria and the United Kingdom”. an unpublished LLB Thesis”. Lead City University. 2022

- iv. “Evaluation of Forensic Accounting Techniques in the Management of Occupational Fraud among Independent Hotels in Nigeria” an unpublished PhD Thesis.” Charisma University. 2019
- v. “Assessing the Relationships between Service Quality and Human Resources Selection Process in Hotels” an unpublished MSc Thesis. Charisma University. 2016
- vi. “Interpretations of and Responses of Hospitality Businesses to Marketing Principles and Philosophies: Enabling The Marketing/Hospitality Synergy” an unpublished PhD Thesis, Sherwood University, 2006
- vii. “Roles of Marketing in Hotel Business” an unpublished HND Thesis. Lagos State Polytechnic, 2000

2. Publications (relevant to Law)

- i. Olu Ojedokun and Wasiu A. Babalola (2024) A Comparative Legal Study of Personal Income Tax Computations: Lessons Under the Nigeria PITA, PITAM and The United States of America Tax Systems. Journal of Accounting and Taxation. April – June. Vol.16(3),
- ii. Adeogun Olajumoke and Babalola Wasiu A. (2023) Disruptive Innovation and Technologies in Tourism: A Game Changer for Today's Tourism Organisation. Journal of Research in Hospitality and Tourism Vol 6. A Publication of the Department of Tourism & Hospitality Management, Elizade University Ilara Mokin, Nigeria
- iii. Babalola, Wasiu A. and Adenipekun, Oluwatemiloron (2023) International Economic Law in an Era of Multiple Crises: Opportunities and Challenges for Africa in the wake of AFCFTA. International Journal of Research and Scientific Innovation (IJRSI). Volume X Issue XI November. DOI: <https://doi.org/10.51244/IJRSI.2023.1011041>
- iv. Adegbite, A., Babalola, W. A., and Oyeyemi, O. (2023) A Review of the Strengthening of the Nigeria Consumer Protection Framework via Judicial Activism within the Hospitality and Tourism Businesses. Journal of Institutional Catering, Hospitality and Tourism Management (JICHTM) Vol 4 No 2. Available at SSRN: <https://ssrn.com/abstract=4448862> or <http://dx.doi.org/10.2139/ssrn.4448862>
- v. Adegbite, A. Babalola, W. and Oyeyemi, O, (2023) A Critical Review of the Nigerian Consumer Protection Framework. Available at SSRN: <https://ssrn.com/abstract=4344396> or <http://dx.doi.org/10.2139/ssrn.4344396>
- vi. Bashiru Adekunle A; Olukemi Adedokun-Fagbolu; Wasiu A. Babalola (2022) “Exploring Issues Affecting Domestic Air Travellers’ Experiences at Lagos Airports, Nigeria” Journal of Institutional Catering, Hospitality and Tourism Management (JICHTM) Vol 4, No 1 Pages 45 – 52
- vii. Oyedokun G. E, Babalola W. A and Awosika M (2020) “Imperatives of Tax Incentives in Nigeria” in Oyedokun G. E et al Tax Management & Compliance in Nigeria (Ed) Lagos; OGE Professional Services
- viii. Babalola, W. A. and Oyedokun, G. E. (2020). Legal Implications of Non-existence of Force Majeure Clause in Management Consulting Contracts amid Covid-19 Crisis: The Place of Hospitality Consulting Contracts. Port Harcourt Journal of Business Law. 7(2), 17-26. A Publication of the Faculty of Law, Rivers State University of Port Harcourt, Nigeria
- ix. Babalola W. A, Oyedokun G.E, and Adeyemo K. A (2020) “Banes of Multiple Tax Regimes in Nigeria Hospitality Business: A Critical Analysis of Courts’ Decisions

- in Restoring Sanity in Sectoral Tax Administration. Islamic University Multidisciplinary Journal (IUMJ) Volume 7 Number 1. January
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F. PROFESSIONAL ACCOMPLISHMENT:

- i. President and Chairman of Council, Institute of Hospitality Accountants and Revenue Managers
- ii. Immediate Past Regional Chairman & Member of the International Branch Committee, Institute of Hospitality UK (Nigeria International Branch), - Dec 2023 till date;
- iii. 2nd Vice President & Council Member, Nigerian Hotel & Catering Institute. – November 2021 till date
- iv. Certified Accreditor for Programme and Institutional Accreditation by GUNI-Africa and AfriQAN – October 2021
- v. Chairman, Nigeria Economic Summit Group (NESG) Sub-Committee on Hospitality Sector with mandate to develop a National Hospitality Policy for the Country. – November 2021 - 2022
- vi. Honorary Chairman, Institute of Hospitality UK (Nigeria International Branch), - Nov 2020 – Dec 2023;

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