



# RUNLAWJ

**REDEEMER'S UNIVERSITY LAW JOURNAL**  
COLLEGE OF LAW, REDEEMER'S UNIVERSITY, EDE, NIGERIA

ISSN: 2636 6462

Vol. 1, Pt. 2, July – December 2018

## **THE EU-ACPECONOMIC PARTNERSHIP AGREEMENTS (EPAs): KEY CHALLENGES AND DEVELOPMENT OPPORTUNITIES FOR NIGERIA**

❖  
**IDOWUO.I.\***  
&  
**OYELADEO.S.\*\***

### **Abstract**

This paper presents findings of a study on trade relationship between the African, Caribbean and Pacific (ACP) group of countries<sup>1</sup> and European Union (EU). The analysis focuses on the challenges and opportunities for the Nigerian economy should the country decides to lead other members of the ECOWAS bloc<sup>2</sup> to ratify and implement the Economic Partnership Agreement (EPA) which seeks to alter the long standing non-reciprocal arrangements that have existed between the two trading partners under the initial Lome Convention.

The paper seeks to increase the understanding of the main issues at stake in the negotiations in order to enable policy-makers and government representatives make informed decisions when negotiating the EPAs. The ultimate aim of this paper is to articulate those principles and strategies that should guide Nigeria in leading other ECOWAS countries in the negotiation process to secure a development-focused EPA.

The paper is structured into six sections: the first section provides a historical development of the emergence of EPAs; the second section analyzes the basic principles in EPA negotiations; the third section appraises the Legal framework for EPAs; the fourth section focuses on the implications of the EPA for Nigeria; the Key Challenges are

---

\*Idowu, O. I. LL.M., BL. Lecturer, College of Law, Redeemers University, Ede, Osun State, Nigeria

\*\*Oyelade O. S. Ph.D., BL., Associate Professor of Law, Obafemi Awolowo University, Ile-Ife

<sup>1</sup>The countries which constitute the African, Caribbean and Pacific countries are as follows : Angola, Antigua and Barbuda, Barbados, Belize, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Congo, Cote d'Ivoire, Cuba, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Fiji, Gabon, The Gambia, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, Jamaica, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Papua New Guinea, Rwanda, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Senegal, Sierra Leone, Solomon Islands, South Africa, Suriname, Swaziland, Tanzania, Togo, Trinidad and Tobago, Uganda, Zambia, Zimbabwe

<sup>2</sup> Articles 35 (2) and 37 (3) of the Cotonou Agreement "ACP countries are primarily required to negotiate the EPA in groups. However, where group negotiation is not possible individual countries could apply for sole negotiation. In the case of Nigeria, the country belong to the ECOWAS bloc"

examined in section five. In section six, the paper discusses the possible opportunities while section seven recommends strategies for ensuring a development-oriented EPA.

## **Introduction**

Economic Partnership Agreement is a type of Free Trade Agreement (FTA) which is usually signed amongst two or more countries or economies to form a free trade area. A free trade area, in this instance, is a grouping of countries within which tariffs and non-tariff trade barriers between the members are generally abolished while at the same time maintaining or applying tariffs to imports from non-member countries<sup>3</sup>.

There are three main types of FTAs, namely; North-North, North-South and South-South free trade agreement. The North-North FTAs comprises only the developed countries, for example, the European Union-15 (EU-15)<sup>4</sup> before its enlargement in 2005. The North-South FTAs involve both developed and developing countries. E.g. the North America Free Trade Agreement (NAFTA)<sup>5</sup>, these FTAs involve the United States, Canada and Mexico. The last type is the South-South FTAs which involve only the developing countries. The Association of Southeast Asian Nations (ASEAN) Free Trade Agreement (AFTA) is a very good example.

Going by the foregoing analysis, it is clear that the EU-ACP Partnership Agreements are clear examples of the North-South FTAs which involve both developed and developing countries. In discussing the trade relations between the EU-ACP countries, the study progresses with a special focus on Nigeria. In Africa, particularly in the West Africa sub region, Nigeria is the most important economy to reckon with. Whatever affects the economy of Nigeria affects other African countries one way or the other. The EPAs between EU and the ACP countries which commenced on the 23rd June, 2000 will expire in the year 2020. Having about two years to go, the paper reviews the journey so far with a view to providing useful information on the best way to engage with the EPA in order to be able to secure the development aspirations of Nigeria as well as other ACP countries under the various EPAs.

---

<sup>3</sup>See Financial Times Lexicon at <http://lexicon.ft.com/Term?term=free-trade-area>. Retrieved on 20<sup>th</sup> June, 2018.

<sup>4</sup> See <https://community.eea.europa.eu/home/about-EEA/what-is-the-eu-15> Retrieved on 18th June, 2018. "EU-15: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, United Kingdom, Switzerland, Liechtenstein, Monaco, Norway, Japan, Australia and New Zealand".

See INVESTOPEDIA at <https://www.investopedia.com/terms/n/nafta>. Retrieved on 19th June, 2018.

## **The Historical Development**

### *The Treaty of Rome, 1957*

In 1957, the Treaty of Rome was signed by Belgium, France, Italy, Luxembourg, the Netherlands and West Germany to create the European Economic Community (EEC)<sup>6</sup>. The trading principle of Europe granting trade preferences to the ACP is rooted in the Treaty of Rome which proposed to create a single market for goods, labour, services, and capital across the EEC's member states. During the negotiation, France made it clear to its European partners that a continued special relationship with its African colonies, was a prerequisite to its participation in the European Community and integration process. A few years later, in 1963, the first partnership agreement in history was signed in Yaoundé, Cameroon by the EEC and 18 newly independent francophone African countries and Madagascar.<sup>7</sup>

### *The Yaoundé Convention of 1963*

The framework for trade in the Yaoundé Convention of 1963 was based on the principles already present in the treaty of Rome i.e. the principle of reciprocity and non-discrimination. Particularly, France intended that the Yaoundé countries would form a free trade zone among themselves, and as such eventually sign reciprocal agreements with the EEC as a regional trade group. Thus, the idea of a free trade zone between Europe and Africa, which resurfaced in the EC's proposal for ACP-EU Economic Partnership Agreements is an old vision, a clear imitation of colonial times.<sup>8</sup> In 1969 the agreements made in the first Yaoundé Convention were renewed by the second Yaoundé Convention which lasted until 1975.<sup>9</sup>

Yaoundé I and its successor Yaoundé II (signed 1969) eventually failed to create this EEC Africa free trade zone for three main reasons: (a) Newly independent African states themselves embarked on self-centred development strategies which relied, inter alia, on protectionist trade policies. Therefore they showed no readiness to provide trade preferences to their European partners, (b) French international firms, which had been benefiting from traditional preferential positions in ex-French colonies, were keen to protect themselves from potential other European competitors, and (c) Finally, the United

---

<sup>6</sup> See The History of the European Union at <http://www.historiasiglo20.org/europe/traroma.htm> Retrieved on 14th May, 2018.

<sup>7</sup> Ibid, See also [https://en.wikipedia.org/wiki/Treaty\\_of\\_Rome](https://en.wikipedia.org/wiki/Treaty_of_Rome). Retrieved on 14<sup>th</sup> May, 2018

<sup>8</sup> Ron Dorman "European Union and the Third World" Retrieved at <http://www.caef.org.uk/lome2.html> on the 12<sup>th</sup> May 218.

<sup>9</sup> Ibid.

States opposed Europe making Africa its restricted “backyard”, fearing Europe would gain privileged access to African markets and natural resources at its expense.<sup>10</sup>

### *The Lome Convention of 1975*

The Yaoundé II Agreement expired in 1974 and was succeeded by a new Convention, signed in and named Lome Convention, after the capital of Togo. The Lomé Convention was initiated to rectify the inefficiencies created in Yaounde Convention. The provisions were much more appealing and advantageous, therefore a group of African, Caribbean and Pacific countries joined forces to enter into negotiations. In 1975, the Agreement was signed after 18 months of negotiations by the nine EC Member States and 46 developing countries which became formally known as the ACP countries.<sup>11</sup>

### *The Cotonou Agreement of 2000*

The Cotonou Agreement was drawn up in Cotonou, the capital of Benin and signed in June 2000 by 78 ACP countries and the EU-15<sup>12</sup>. The Agreement replaced the Lome Convention on the ground that it was not compatible with the General Agreement on Tariffs and Trade (GATT) and the fact that the expected economic reward was not forthcoming. The Cotonou Agreement established the framework for negotiating the WTO-compatible reciprocal trade relations, i.e. the ACP-EU Economic Partnership Agreements (EPAs). Thus, the ACP-EU Partnership Agreements, signed in Cotonou on 23 June 2000, were scheduled to take effect in 2008. The Agreement was concluded for a 20-year period from 2000 to 2020.<sup>13</sup> It is the most comprehensive partnership agreement between developing countries and the EU. Since 2000, it has been the framework for EU's relations with countries from Africa, the Caribbean and the Pacific (ACP). The Cotonou Agreement was first enforced in 2003 and revised in 2005 and March 2010. Its ultimate aim is poverty reduction and eventual eradication for sustainable development. The Cotonou Agreement will come to an end on 29 February 2020.

### **Basic Principles in Economic Partnership Agreements (EPAs) Negotiations**

An economic partnership agreement is an economic arrangement that eliminates barriers to the free movement of goods, services, and investment between

<sup>10</sup>Henri-Bernard Solignac Lecomte “Effectiveness Of Developing Country Participation In ACP-EU Negotiations” October 2001 Retrieved at <https://pdfs.semanticscholar.org/a634/4d4e677e03b050d27dfb44b870407453599e.pdf> on 16<sup>th</sup> May, 2

<sup>11</sup> Ibid

<sup>12</sup> See What is the Cotonou Agreement at <https://www.worldatlas.com/articles/what-is-the-cotonou-agreement.htm> Retrieved on 15<sup>th</sup> May, 2018.

<sup>13</sup> See International Cooperation and Development at [https://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/cotonou-agreement\\_en](https://ec.europa.eu/europeaid/regions/african-caribbean-and-pacific-acp-region/cotonou-agreement_en) Retrieved on 18<sup>th</sup> May, 2018.

countries.<sup>14</sup> This agreement can be considered an intermediate step between free trade area and single market in the process of economic integration. Economic partnerships are sometimes described as high standard variants of free trade agreements. An example is the Japan-Mexico Economic Partnership Agreement<sup>15</sup>. In the instance, the EU's economic partnership agreements are trade and development arrangements between the EU and the African, Caribbean and Pacific (ACP) countries - designed to facilitate the ACPs' integration into the world economy through gradual trade liberalization and improved trade-related cooperation.<sup>16</sup>

Generally, trade liberalization can be achieved according to three forms of international cooperation. The first is the bilateral agreement set up by the two countries. Second is regional cooperation, that is, a grouping of countries formed from the equation of geography, language, history and other factors. The last form is a multilateral trade agreement, the trade agreement undertaken by many countries.<sup>17</sup> The Economic Partnership Agreements between the EU and African, Caribbean and Pacific (ACP) countries which aim at fostering the smooth and gradual integration of the ACP partners into the world economy and ultimately contribute, through trade and investment, to sustainable development and poverty reduction embody certain key elements of regionalism, special treatment and reciprocity.

### *The Principle of Regionalism*<sup>18</sup>

Articles 35 (2) and 37 (3) of the Cotonou Agreement provide a basis for conducting EPA negotiations within the regions rather than bilaterally as part of the Agreement's goal of strengthening regionalism as a strategy of integrating ACP countries better within the international trading system.

---

<sup>14</sup>[https://en.wikipedia.org/wiki/Economic\\_partnership\\_agreement](https://en.wikipedia.org/wiki/Economic_partnership_agreement) "Economic Partnership Agreements are a scheme to create a free trade area (FTA) between the European Union and the African, Caribbean and Pacific Group of States (ACP). They are a response to continuing criticism that the non-reciprocal and discriminating preferential trade agreements offered by the EU are incompatible with WTO rules. The EPAs date back to the signing of the Cotonou Agreement."

<sup>15</sup> Available at <http://www.mofa.go.jp/POLICY/economy/fta/mexico.html>. Retrieved on 13<sup>th</sup> May, 2018

<sup>16</sup> See European Commission Trade Help Desk available at <http://trade.ec.europa.eu/tradehelp/economic-partnership-agreements-epas>. Retrieved on 13<sup>th</sup> May, 2018. "The EU-ACPEPAs are set within the framework of the EU-ACP Partnership Agreement (known as the Cotonou agreement) that governs relations between the EU and the ACP countries. Under the EPAs, EU markets are immediately and fully opened, while the ACPs have 15 years to open to EU imports (with protection for sensitive imports) and even up to 25 years in exceptional cases."

<sup>17</sup> See "Global Trade Liberalization and the Developing Countries" Available at <https://www.imf.org/external/np/exr/ib/2001/110801.htm>. Retrieved on 13<sup>th</sup> May, 2018.

<sup>18</sup> See "Economic Partnership Agreement" at [https://en.wikipedia.org/wiki/Economic\\_Partnership\\_Agreements](https://en.wikipedia.org/wiki/Economic_Partnership_Agreements). Retrieved on the 12<sup>th</sup> May, 2018.

True to the Cotonou principle of regionalization, the developing countries are encouraged to enter into the EPAs in regional groupings. So far the ACP countries have formed seven regional groupings. The negotiations of the EPAs with the European Union are undertaken by the ACP countries at these groups level. These regional groupings are<sup>19</sup>:

- a. the Economic Community of West African States (ECOWAS)
- b. Central African Economic and Monetary Community (CEMAC)
- c. the Southern African Development Community (SADC)
- d. the East African Community (EAC)
- e. the Eastern and Southern Africa (ESA)
- f. the Caribbean Community and Dominican Republic (CARIFORUM), and
- g. the Pacific region.

Nigeria is a member of the Economic Community of West African States. Thus, Nigeria along with other members of ECOWAS are required to sign the EPA as a bloc. Presently, the EPA is at a standstill, reason being that The Gambia, Mauritania and Nigeria, unlike other members of ECOWAS have refused to sign the agreement<sup>20</sup>. The reasons for Nigeria not signing the EPA relate to the many challenges embedded in the Agreement.

### ***The Principle of Reciprocity***

In international relations and treaties, the principle of reciprocity states that favours, benefits, or penalties that are granted by one state to the citizens or legal entities of another, should be returned in kind. For example, reciprocity has been used in the reduction of tariffs, the grant of copyrights to foreign authors, the mutual recognition and enforcement of judgments, and the relaxation of travel restrictions and visa requirements.<sup>21</sup>

---

<sup>19</sup>The ACP Regional Groups pre-EPAs are as follows: Africa-SADC Southern African Development Community, COMESA Common Market for Eastern and Southern Africa, SACU Southern African Customs Union, EAC East African Community, ECCAS Economic Community of Central African States, CEPLG Economic Community of the Great Lakes Region, CEMAC Central African Economic and Monetary Community, ECOWAS Economic Community of West African States, WAEMU West African Economic and Monetary Union, IGAD Inter-governmental Authority on Development, CENSAD Community of Sahelo-Saharan States; Caribbean-CARIFORUM Forum of Caribbean States, CARICOM Caribbean Community and Common Market, OECS Organisation of Eastern Caribbean States; Pacific-PICTA Pacific, MSG Melanesian Spearhead Group.

<sup>20</sup> See "ECOWAS-EU EPA: A Regional (dis)integration tool?" at <https://whatsinitforafrica.eu/ecowas-eu-epa-a-regional-disintegration-tool/>. Retrieved on 12<sup>th</sup> May, 2018.

<sup>21</sup> Available at [https://en.wikipedia.org/wiki/Reciprocity\\_\(international\\_relations\)](https://en.wikipedia.org/wiki/Reciprocity_(international_relations)). Retrieved on 13<sup>th</sup> May, 2018. See also Keohane, Robert O. (1986), "Reciprocity in international relations", in International Organization, Vol. 40, and No.1.

Due to the continuing WTO incompatibility of previous arrangements, the EPAs' key feature is their reciprocity and their non-discriminatory nature. They involve the removal of all trade preferences which have been established between the EU and the ACP countries since 1975 as well as the progressive removal of trade barriers between the partners. In order to fulfill the criterion of being a non-discriminatory agreement, the EPAs are open to all developing countries. This means that the ACPgroup are no longer the main development partner of the EU.<sup>22</sup>

### **Legal Framework for Economic Partnership Agreements (EPAs)**

The legal basis upon which the EPAs were created is the Article XXIV of the General Agreement on Tariffs and Trade (GATT). This article allows for repeal of the Most Favoured Nation clause<sup>23</sup> during the engagement of a Free Trade Agreements (FTAs) or where an interim agreement would lead to the establishment of a Customs Union (CU). This is due to the reason that FTAs are of a discriminatory characteristic. As the Article XXIV of the GATT gives permission for the establishment of FTAs and also CU which is based on the fact that certain criteria's or conditions must be fulfilled. These criteria's that needs to be met for the establishment of the trade agreements are that: (a). the barriers in trade should not increase on the average after integration, (b).tariffs must be eliminated on goods in a reasonable length of time, and (c). the World Trade Organization has to be notified. Thus, these criteria's can be said to be aimed at minimizing non-discrimination against those that are not members.<sup>24</sup>

Before the advent of EPAs, African countries enjoyed preferential and non-reciprocal trade treatment from the European Union. Under that relationship, the EU grants tariff free access to almost all African exports to the EU markets, without requiring African countries to give reciprocal access to the EU in return. However, this relationship which was sustained under the EU-ACP Trade Agreement signed in Lome, Togo was illegal not been in conformity with the WTO international trade regime. As earlier stated, it was for

---

<sup>22</sup> Ibid

<sup>23</sup> See Investopedia at <https://www.investopedia.com/terms/m/mostfavorednation.asp> Retrieved on 19th May, 2018 "In international trade, MFN treatment is synonymous with non-discriminatory trade policy because it ensures equal trading among all WTO member nations rather than exclusive trading privileges. For example, if one nation reduces tariffs by 5% for one nation, the MFN clause states that all WTO members will have their tariffs cut by 5% into that nation. In the case of benefits free-trade agreements provide, like those laid out in the North American Free Trade Agreement, those are not subject to the MFN clause as long as the goods are traded between the participating countries only."

<sup>24</sup> The MFN principle is one of the WTO's major principles. Therefore as a WTO member, the principle must be followed. The clause explains that when a member of the WTO offers specific privileges and access to another member, it must offer such privileges to all other member states. The specific privileges and access that is being offered pertains duties on either export or import of goods and with regards to the terms and issue stipulated in paragraph two (2) and four(4) of GATT.

this reason that the Cotonou Agreement was signed EU and ACP trading partners with the intention of making the trade relations compatible with the guidelines given by the World Trade Organization (WTO).<sup>25</sup> The Economic Partnership Agreements therefore has its legal framework rooted in Cotonou Agreement and are legally binding bilateral contracts between the European Union and individual ACP countries.

Apart from Article XXIV of the General Agreement on Tariffs and Trade (GATT), the second exceptions under which the MFN principle can be ignored is the enabling clause. The enabling clause to developing countries allows for the provision of a legal framework for special treatment under the General System of Preferences (GSP)<sup>26</sup>. It should be noted that the EPAs are not GSP systems. Examples of schemes that have been developed under the enabling clause are the Everything but Arms (EBA)<sup>27</sup> and the GSP.

Another aspect of the legal frame work is the obligations of parties to the Agreements. The EU's obligations under the EPA includes tariff, non-tariff and development-supporting obligations. On tariffs, the agreement says that products "originating in" West Africa "shall be imported into the EU free of customs duties."<sup>28</sup> The agreement also waives the usually stringent Rules of Origin, by giving the West African countries the allowance to use materials sourced from other countries in their production without losing free access to the EU. In the same vein, it is obligatory for EU to provide financial and technical support to help West African exporters meet its Sanitary and Phytosanitary (SPS) standards.<sup>29</sup> EU also undertakes to provide funding for developmental projects relating to energy, transportation, commerce and industry in West Africa, as well as

---

<sup>25</sup> See "Most-Favoured-Nation Treatment in International Investment Law", OECD Working Papers on International Investment, 2004/02, OECD Publishing. <http://dx.doi.org/10.1787/518757021651> "The principle of Most-Favoured-Nation (MFN) treatment is the first article of the General Agreement on Tariffs and Trade (GATT), which governs trade in goods. MFN is also a priority in the General Agreement on Trade in Services (GATS) (Article 2) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Article 4). Together, those three agreements cover all three main areas of trade handled by the WTO."

<sup>26</sup> See "General System of Preferences" at [https://en.wikipedia.org/wiki/Generalized\\_System\\_of\\_Preferences](https://en.wikipedia.org/wiki/Generalized_System_of_Preferences). Retrieved on 19<sup>th</sup> June, 2018 "The Generalized System of Preferences, or GSP, is a preferential tariff system which provides for a formal system of exemption from the more general rules of the World Trade Organization (WTO), (formerly, the General Agreement on Tariffs and Trade or GATT). Specifically, it is a system of exemptions from the most favored nation principle (MFN) that obliges WTO member countries to treat the imports of all other WTO member countries no worse than they treat the imports of their "most favored" trading partner. In essence, MFN requires WTO member countries to treat imports coming from all other WTO member countries equally, that is, by imposing equal tariffs on them. GSP exempts WTO member countries from MFN for the purpose of lowering tariffs for the least developed countries, without also lowering tariffs for rich countries"

<sup>27</sup> From the 16 countries in West Africa, 13 are regarded as Least Developed Countries (LDCs). These 13 countries are currently benefiting from the EU's "Everything-But-Arms" preference scheme.

<sup>28</sup> Article 10 (1) and Annex B of the EU-ECOWA EPA

<sup>29</sup> Article 33, Ibid.

funding to cover the fiscal constraint resulting from implementing the agreement for the period of tariff dismantling. The pledges is to the tune of €6.5bn and similar amounts until 2035.<sup>30</sup>

On the other hand, the EU-West Africa EPA requires the West African party to reduce and eliminate customs duties applicable to certain products originating from the EU.<sup>31</sup> However, the tariff elimination will not commence at once. It is scheduled to commence gradually, to be completed over 20 years, between 2015 and 2035. In addition, only 75 per cent of EU exports to West Africa would be subject to the zero tariff commitment. In other words, The West African Countries are at liberty to collect tariff revenues on imported good which meet the classification of "sensitive products."

### Focus on Nigeria

Although, direct trade with Europe started from the fifteenth century,<sup>32</sup> Nigeria-EU trade relations dates back to 1976 when Nigeria joined the African, Caribbean and Pacific (ACP) group of states as a signatory to the Lomé Convention.<sup>33</sup> Relations between EU and Nigeria was suspended in 1995 because of the execution of nine Ogoni rights activists by the then military government<sup>34</sup>, but resumed in 1999 when the country return to democracy. EU-Nigeria relations have since then acquired better and higher profiles. Nigeria with a population of approximately 198 million people<sup>35</sup> is blessed with abundant human and natural resources. Despite so many challenges the country is faced with, its economy is managing to thrive with an expanding manufacturing, financial, service, communications, technology and entertainment sectors, having large and growing

<sup>30</sup> Article 60 (3), Ibid.

<sup>31</sup> Article 10 (2), Ibid.

<sup>32</sup> "Economic History of Nigeria" available at [https://en.wikipedia.org/wiki/Economic\\_history\\_of\\_Nigeria](https://en.wikipedia.org/wiki/Economic_history_of_Nigeria). Retrieved on 21<sup>st</sup> June, 2018. See Baten, Jörg (2016). *A History of the Global Economy. From 1500 to the Present*. Cambridge University Press. p.320-321. ISBN 97811 07507180. "Portuguese had explored the coasts to avoid Saharan intermediaries in the trade of West African gold to Europe and that was a way to India. They built coastal bases and introduced the Atlantic slave trade when they bought captives from the kingdom of Benin and sold them to African tradesmen on the coast."

<sup>33</sup> "Project Compendium: National and Regional Aid Operations Managed by the EU Delegation to Nigeria and Ecowas" available at <https://eeas.europa.eu/delegations/nigeria/1622/eu-projects-with-nigeria>. Retrieved on 8/6/2018.

<sup>34</sup> Available at <http://www.ipsnews.net/1995/11/commonwealth-nigeria-suspended-with-a-two-year-stay-of-expulsion/>

<sup>35</sup> <https://www.premiumtimesng.com/news/top-news/264781-nigerias-population-now-198-million-npc.html> "This was disclosed by the Chairman of the National Population Commission (NPC), Eze Duruibeoma when delivering Nigeria's statement on sustainable cities, human mobility and international migration at the 51st session of Commission on Population and Development in New York." Retrieved on 15<sup>th</sup> June 2018

domestic consumer market with access to over 380 million<sup>36</sup>ECOWAS market. The EU, recognizing this huge influence Nigeria maintains in Africa and particularly over the West African region, is very much interested in Nigeriasigning the Economic Partnership Agreement, but the decision to sign the EPA in its present form is a make or mar venture. The consequences will be far reaching, particularly for Nigeria with population of 198 million people of the 380 million entire ECOWAS countries. Till date, 13 out of 16 West African States have signed the Agreement. Only Gambia, Nigeria and Mauritania have not signed yet.

### **The Key Challenges**

In appearance, the EPAsextremely fascinating.They signal the understanding that they are designedby the EU to stimulate regional and international trade relations, serve as tools for development, eradicate poverty and generally make positive impact on the parties to the agreement.However, in reality, the EPAs are fraught with many challenges. In the case of Nigeria, the issues are quite numerous but there are three main divisions under which the issues are discussed. The first is the problem of inequities between the trading partners, the second is about the difficulties of complying with EU standard, while the third problem relate to tariff revenue losses and adjustment cost.

### *Inequalities between Trading Partners*

The EPA is clearly not a partnership of equals. There is the EU on the one hand, a developed, industrialized, and technologically advanced economy. On the other hand is Nigeria and other ACP countries.Whereas the structure of the Nigerian economy is typical of an underdeveloped country, and the industrial sector accounts for an insignificant proportion of economic activity. Given this lopsided positioning, how should Nigeria compete with thesewestern economic firepower? The EPAs overlooked the radical implications of the capability inequalities and deficiencies of its parties and that is unjust and regrettable. Definitely, if signed in its present form Nigeria will become a push-around and this should be presented

Nwoke, the former Head of the Division of International Economic Relations, Nigerian Institute of International Affairs, Lagos, Nigeria recounted a scenario which depicts the inequalities as follows:

The EU is already using the big stick in the EPA negotiations, assuming the amazing double role of partner and umpire. For example, in November 2007, Nigeria

---

<sup>36</sup> Available at <http://www.worldometers.info/world-population/western-africa-population/> Retrieved on 8/6/2018

submitted an official request to the European Commission to enable immediate admission for itself and other non-LDCACP countries to the preferential GSP plus scheme, in the event that no EPA agreement was reached by December 31. That request was, of course, immediately rejected. As a result, come January 1, 2008, 'recalcitrant' Nigeria, which, unlike Ghana and Côte d'Ivoire, did not sign the EPA interim agreement, faced higher tariffs under standard GSP, than it did under the Lomé-Cotonou provisions. Consequently, Nigeria's cocoa butter and cocoa liquor exports to the EU now attract additional 4.3% and 6.3% respectively. (5) About 95% of Nigeria's cocoa products are exported to the EU alone, because of the higher freight charges to the US and Asian markets. Estimates by the Cocoa Processors Association of Nigeria (COPAN) show that some \$5 million had been lost by the end of March 2008. Since December 2007, when Ghana signed the interim EPA, Nigerian beverage factories using cocoa are now relocating their plants to Ghana. (6) Thus, the interim EPA that Ghana and Côte d'Ivoire were made to sign in December 2007 will likely destroy the existing process of regional cooperation and integration.<sup>37</sup>

Till date the status quo described above remains the same<sup>38</sup>. The fear by Nigeria that Europe could engage in economic tyranny is reasonable. Nigeria is experiencing a supply-side constraints of weak and inadequate infrastructure, restricted access to financing, limited professional capacity and poor management. The EPA could be beneficial if it addresses these supply-side constraints, preserve the market access, enhance export supply response capacity before embarking on rapid import liberalization schemes.

### *Complying with EU Standard*

The EU is a major trading partner for Nigeria<sup>39</sup>. However, complying with EU standard for trade has always been a problem. In order to be placed on EU market, a product must

---

<sup>37</sup> Chibuzo N. Nwoke, Nigeria and the challenge of the EPA, 7 November 2008 Retrieved at [file:///C:/Users/user/Desktop/NEW%20PAPER/Nigeria%20and%20the%20challenge%20of%20the%20EPA%20\\_%20International%20Centre%20for%20Trade](file:///C:/Users/user/Desktop/NEW%20PAPER/Nigeria%20and%20the%20challenge%20of%20the%20EPA%20_%20International%20Centre%20for%20Trade)

<sup>38</sup> Nigeria refused to conclude an interim EPA with the EU and lost its preferences. The country was therefore forced to trade with the EU under the less generous General System of Preferences (GSP).

<sup>39</sup> "Nigeria and the EU" available at [https://eeas.europa.eu/headquarters/headquarters-homepage/1621/nigeria-and-eu\\_hr](https://eeas.europa.eu/headquarters/headquarters-homepage/1621/nigeria-and-eu_hr) Retrieved on 21<sup>st</sup> June 2018 "The EU constitutes the most significant trade partner for

comply with certain essential requirements.<sup>40</sup> Prior to exporting, Nigerian manufacturers have to consider certification for the EU market. Certification in this regard bothers on conformity assessment (testing and certification) in order to declare compliance with EU regulatory requirements. For the majority of exported products, compliance is visibly testified by the use of CE marking. These processes are like the herculean task for majority of our exporters in Nigeria and regrettably, more often than not, the goods are rejected for lack of compliance.

The National editorial of June 17, 2017 stated:

In 2015 and 2016, the European Union rejected 67 processed and semi-processed foods from Nigeria, citing poor quality, contamination and high levels of chemicals in the preserved products. Food items such as beans, melon seeds, palm oil, bitter leaf, pumpkin, shelled groundnuts and live snails topped the list. The pesticide level of banned beans from Nigeria was said to be between 30.03mg per kg to 4.6mg per kg of Dichlorvos pesticide, while the acceptable residue limit is 0.01mg/kg.<sup>41</sup>

The painful aspect about the narratives is that Nigeria is not conveniently at the stage of adding value to its raw materials for purposes of exporting processed food for the Europeans. The Europeans make processed foods and export to Nigeria but Nigeria is not reciprocating. Whereas, even the raw material being exported are failing EU regulatory requirement.<sup>42</sup> Nigeria is therefore not in the position to enter EPA with European Union

### *Tariff Revenue Losses and Adjustment Cost*

A tariff is a tax imposed on the import or export of goods<sup>43</sup>. Generally, it refers to "import duties" charged at the time goods are imported. Among the many challenges of the EPAs are the problems of tariff revenue losses and the resultant high adjustment cost. Tariff revenue is very important to Nigerian government. If Nigeria ratifies and implement the EPA in its present form, the country would experience difficult time of transition. The

---

the whole ECOWAS region. It remains the top destination for Nigeria's oil and non-oil exports with trade volumes at €39.6 billion in 2014."

<sup>40</sup><https://2016.export.gov/europeanunion/eustandardsandcertification/index.asp>

<sup>41</sup> THE NATION online newspaper of 17<sup>th</sup> June, 2017 available at <http://thenationonlineng.net/rejected-abroad-kings-home> Retrieved on the 14th June, 2018.

<sup>42</sup>Ibid "Commenting on the banned Nigerian food items in Europe, Prof Adebayo who is also the Project Director, 'Cassava: Adding Value for Africa Phase II (CAVA II)', affirmed that once there is evidence of some unwanted bodies in a food crop, the importing nations are within their rights to reject it."

<sup>43</sup>Cambridge Dictionary available at <https://dictionary.cambridge.org/us/dictionary/english/tariff> Retrieved on 18<sup>th</sup> June, 2018 "a government charge on goods entering or leaving a country: import tariffs"

Premium Times editorial of December 21<sup>st</sup> 2017 gave the account of revenue collection in 2017 as follows:

The Nigeria Customs Service, NCS, has recorded its highest revenue collection ever of over N1 trillion as against N770billion target set for 2017. The NCS Public Relations Officer, Joseph Attah, announced this at a news conference in Abuja on Thursday. According to him, the revenue realized this year is a historic figure ever made in the NCS. "NCS has recorded the highest revenue collection ever of N1,012,259,006,779.74 with five more working days to the end of 2017." "This spectacular performance in revenue collection shows N241,685,276,289.74 over the N770,573,730,490 target for the year and well above the N898,673,857,431.07 collected in 2016." (This is) Despite the economic recession experienced earlier in the year, with low volume of imports and restriction placed on 41 items from accessing Forex.<sup>44</sup>

Going by the above, it is clear that tariff revenue collection in Nigeria constitutes one of the most viable alternatives to oil revenue. Giving up such a thriving source of national income will no doubt pose some real fiscal constraint. In summary, the implementation of the EPA in its present form will constitute major challenges for Nigeria. The manufacturing industry will be crippled as a result of the influx of imported products, there will be massive loss of government revenue, firms will lay off workers due to poor sales and lack of competitiveness of local products, Small and medium scale enterprises which mostly constitute the greater proportion of Nigeria economy would be obliterated, the process of de-industrialization in Nigeria will escalate. Also, European subsidies made available to its own farmers will frustrate trade in Nigeria's agricultural products and poverty level will increase etc.

### **Opportunities of Economic Partnership Agreements (EPAs)**

#### ***Improved Standard of Living***

If the right measures are put in place,<sup>45</sup> the EPA could trigger a rise in the living standard of Nigerians. There will be more jobs as a result of value added products and

---

<sup>44</sup> Premium Times online News, available at <https://www.premiumtimesng.com/news/headlines/253190-nigeria-customs-generates-n1-trillion-2017-highest-ever.html>. Retrieve on 18<sup>th</sup> June, 2018.

<sup>45</sup> For instance, the Economic Partnership Agreement stipulates that all the goods that Nigeria can produce are excluded from the list goods industries in European Union can export in order to protect Nigerian industries and the goods to be imported are capital goods, machinery and inputs that are useful for the

manufacturing opportunities. The advantage of free access to Europe and regional market will become meaningful because made in Nigerian products will be competing favorably in the international market. Domestic prices will drop and the consumer welfare will drastically improve, because tariff barriers on nearly all of their European imports would have been eliminated. Generally, the living condition will of people will be positively impacted.

Also, EPA would bring about the implementation of the EPA Development programme (EPADP)<sup>46</sup> which focuses on regional integration, trade infrastructure and competitiveness for which the EU has already committed €6.5 billion. This programme

### ***Stronger Regional Market***

Regional integration is one of the main preconditions to signing the EPAs. Nigeria belongs to the ECOWAS. Nigeria and the other fifteen countries which constitute ECOWAS as a trading bloc are in the process of negotiating EU-ECOWAS Economic Partnership Agreement with the EU. Integration of ECOWAS in the global value chains is beneficial, because expand the market for goods and therefore allow companies, factories and industries to produce more of their goods and sell it to a bigger market. This creates something called economies of scale, where the per-unit price of producing a good decreases as the total quantity of that good's production increases.

Also, regional integration is an important building block in deterring violent conflicts between nations. Conflict is replaced by constructive dialogue. There hasn't been a war between members of the European Union since it was created. In Europe the focus has been on creating a single market based on economic freedom and on creating effective common political institutions to deal with issues that concern all members and require attention. The connectivity between countries is much higher now than it ever was in the past.

### ***Liberalized Access to EU Market***

The EPAs offer not just access to EU market, but a liberalized access, meaning duty free exports to the EU. Although, access to the EU market by Nigeria has never really worked

---

industrial sector. All West African exports will gradually reduce duties on 75 per cent of EU imports over a long transition period of 20 years.

<sup>46</sup>The EPA Development Programme (EPADP), better known under its French acronym PAPED, constitutes a framework to identify evolving development support needs in order for the region to reap benefits of the EPA and to mitigate the negative impact of the agreement. If the EPA were to be signed, the EPADP could be operationalized to deliver on its potential

properly, because, Nigeria could only comply with EU standards substantially. EU should concentrate on supporting Nigeria's private sector in complying with market standards, while helping the government to finance infrastructure-related projects. Nigeria stands a chance of becoming a hub for global trade and investments under this arrangement, particularly if it can to put more efforts into improving systems and adding value to all products before they enter the market.

## **Recommendations**

### *Establishment of Research centers*

The subject of "EU-Economic Partnership" is very problematic and highly controversial. The challenges of inequalities between trading partners, complying with EU Standard, and Tariff revenue losses and adjustment cost are the main challenges analyzed in this study. The Federal Government of Nigeria should establish research centers to undertake in-depth investigation of the issues and come up with solutions. At present, The Federal Government of Nigeria is too inadequate in its approach to the issues. For instance, on the issue of Continental Free Trade Agreement (CFTA), Premium Times online editorial of March 21<sup>st</sup> 2018 reports that:

The Federal Executive Council (FEC) on Wednesday agreed to set up a committee to meet and review within two weeks the content of the proposal for the Continental Free Trade Agreement (CFTA) and report back to the Federal Executive Council.<sup>47</sup>

The above Federal Government's methodology of setting up a committee to review such an all-important document within two weeks, at best represents a fire-brigade approach. No government achieves resounding success in that manner. The government needs to inculcate the culture of operating on the basis of research findings. The purpose of research is usually to be able to take inform action on issues. Research provides detailed information about the topic in question. All over the world, research is the main foundation of program development and policies. It helps to investigate and clarify complicated facts and figures. In like manner, government and secretariat staff should be deployed to embark on periodic short executive courses with focus on negotiation, implementation and continuous utilization of the EPA.

### *Building Institutional and Regulatory Capacity*

---

<sup>47</sup> Available at <https://www.premiumtimesng.com/news/more-news/262640-nigerian-govt-sets-up-committee-to-review-africa-free-trade-agreement-proposal.html> Retrieved on 23<sup>rd</sup> June, 2018.

Nigeria needs to build institutional and regulatory capacity to manage its trade partnership with the EU and advise the federal government on how best to go about resolving the contentious Economic Partnership Agreement (EPA). Over the years, the challenge of poorly functioning public institutions and weak governance have been the key impediments to growth and equitable development in Nigeria. The country should build strong institutions with the ability to make and sustain economic policies because institutional capacity is key to effective policy-making and economic success, more importantly, to ensure progress in the EU integration process. In May 2017 the Federal Government established the Nigerian Office of Trade Negotiations (NOTN), as the institutional framework and foundation for Nigeria's trade policy infrastructure.<sup>48</sup> The Office should be funded and strengthened to perform.

### *Review of EPA Clauses*

The Federal Government of Nigeria should in addition to the effort of the newly established Nigeria Office for Trade Negotiation (NOTN) engage the services of seasoned trade experts to meticulously review contentious EPA issues and clauses in order to ensure their consistency with national and regional development goals and aspirations. The EPA negotiations should be guided by the principle of sovereign autonomy and consistency with national interest. Specific demands should include the following: The time schedule for the EPA should be tied to achievement of basic development thresholds in Nigeria and ECOWAS countries, with the principle of reciprocity only commencing after these thresholds have been reached, Nigeria and other ECOWAS countries should be involved in setting EU product standards and sanitary and phytosanitary measures, the EU should eliminate all domestic support and export subsidies on all products of export interest, the rules of origin should be should be redrafted to protect goods manufactured in Nigeria and other ECOWAS countries etc.

### **Conclusion**

This study advocates that the EPA be put on hold until the infrastructure deficit challenge of Nigeria is properly addressed. The other ACP countries should take a cue from Nigeria in this regard. This study identifies potential development opportunities within the EPAs. However, the opportunities are tied to many strings of problems which eventually would outweigh the so called development opportunities. It is the position of this study that,

---

<sup>48</sup> Available at <https://www.premiumtimesng.com/news/more-news/238212-director-general-appointed-nigerian-office-trade-negotiations.html> Retrieved on 24th June, 2018 "The office is legally domiciled in the Ministry of Industry, Trade and Investment."

until Nigeria is advanced enough to absorb the adjustment cost that comes with EPAs, the development opportunities cannot be realized. Thus, the probability of the EPA impeding the developmental aspirations of Nigeria is far higher than spurring rapid growth.