

The Quest for Africa's Trade Growth: Intra-African Trade and the Proposed African Continental Free Trade Areas (AfCFTA): A Commodification of Old Practice or Maintenance of New Order?

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Abstract— Regional organisations in Africa have existed for trade development in many years. There are existing organisations such as the Southern African Development Association (SADC), Eastern African Community (EAC), Economic Community of West African States (ECOWAS), Common Markets for Eastern and Southern Africa (COMESA) and the Harmonisation of Business Laws in Africa (OHADA). This study is set out to examine the legal implication of the intra-African trade agreement and the proposed African Continental Free Trade Areas (AfCFTA) in order to determine whether the idea behind the intra- practice or maintenance of the new order. While, it is conceded that the regulatory frameworks of NEPAD was aimed to boost Africa's opportunities for industrialisation and trade growth in the region, the continent has remained rooted in the same position of poverty both at the regional and international level in terms of economic and human development. The study finds that the hypothesis that the creation of the AfCFTA may create and boost African market and create over 1.2 billion jobs, with a Gross Domestic Product of 2.5 trillion U.S dollars in terms of the number of participating countries may yet suffer another setback if not properly handled. The study concludes that given the antecedent of NEPAD and other regional organisations, Intra-African Trade and the AfCFTA is nothing but a new wine in an old wine bottle which calls for caution as it may be a commodification of an old order and not a new practice to bring growth to African trade.

Index Terms— Commodification, Intra-African Trade, Trade growth, Regional organisations. NEPAD.

I. INTRODUCTION

Highlight Law and development have a symbiotic relationship.¹ Legal frameworks for economic cooperation had existed in Africa for years, while sub-regional cooperation has existed for trade and economic advancement for many years.² However, as many as these organisations,

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¹ Davis, K. E., & Trebilcock, M. J., "The American Journal of Comparative Law" (2008) Vol. 56, No. pp. 895-946, Oxford University Press. <https://www.jstor.org/stable/20454650>. (accessed on May 27, 2018).

² C. M. Dent, Sub-Regional Cooperation and Developmental Regionalism" (2011), Available at <https://www.jstor.org>. (accessed on September 18, 2018)

the problem of African trade development remains bedraggled. There are organisations such as the Southern African Development Association (SADC), Eastern African Community (EAC), Economic Community of West African States (ECOWAS), Common Markets for Eastern and Southern Africa (COMESA) and the Harmonisation of Business Laws in Africa (OHADA). While it is conceded that the legal and regulatory frameworks of NEPAD; Intra African trade agreement reflect interconnected dynamism of options for Africa's development pathways, in some number of ways, NEPAD, intra-African trade and sub-regional organisations do not represent a single trade institution for all of Africa. This study is set out to investigate the extent of how the frameworks of the legal document of intra-trade Agreement and the proposed African Continental Free Trade Areas (AfCFTA) being proposed by the Africa intends to bring about trade development and positive balance of payment as part of approaches to solving Africa's trade problems at the global market.

The argument which necessitated the proposed AfCFTA is that the establishment is supposed to pay way for speedy Continental Customs Union and the African Customs Union's establishment.³ This paper argues that if the purpose of Intra-African trade is an internal regional arrangement of trade development, balance of payment and human development may be far-reaching in the arrangement given the past historical antecedent of the existing regional arrangements. It is believed that when AfCFTA is established, it may create an African marker which may boost over 1.2 billion people with a Gross Domestic Product of 2.5 trillion U.S dollars in terms of the number of participating countries. African Union believes that AfCFTA should make Africa the largest free trade area since the formation of the World Trade Organisation but the organisation failed to disclose the benefit AfCFTA would bring to the people of the Africa. This is more so because countries like Nigeria and South Africa and some other African countries have refused to sign the Intra-Trade Agreement for several reasons which in case of Nigeria is that if allowed, it may stifles employment in most of states.

Most significant of all in this study is the question of whether

³ See Olusegun Obasanjo's comment on <https://www.vanguardngr.com/2018/03/intra-africa-trade-important-continents-economic-development-obasanjo/>. (accessed on September 18, 2018).

the idea behind the intra-African Trade or the proposed (AfCFTA) is a commodification of an old practice or maintenance of the new order? It is doubtful whether trade within Africa is anything different from the old practice of regional trade integration which had existed on the continent for many years. This study contends that some of the ideas contained in the legal framework of the Intra-Trade Agreement may serve as precursors to trade cooperation within the regions but their intentions to condense the achievement into achieving balance of payment and trade growth at the international market may suffer a setback, given that most regions in Africa produce almost the same products and their legal tenders are weak compared to the international money market especially, the United States Dollars and Euros.

This study examines some existing challenges of the Intra-Trade Agreement currently signed by some African countries and the proposed (AfCFTA) as a footstool to African trade development and suggests an effective trade networking within the continent. Although, Africa is a major player in the international community market especially in this era of free trade but she cannot boast of trade growth from the international market because of her little market share and the rules of GATT on quantitative restriction. This has so much affected the continent that most countries in Africa have little to show for quality of standard of living of her people when compared to the advanced countries. The idea of intra-Africa trade agreement is built on the philosophy that Africa needs to trade more within her region in order to raise trade development. I am of the opinion that the African countries which signed the Agreement failed to question whether Intra-African trade within Africa is anything different from the existing regional trade cooperation and agreements? Among major concerns regarding development of African trade is that Africa needs to industrialise, grow a robust balance of payment and upgrade her trade deficit at the World Trade Organization (WTO) as well as impact on the living standard of the people as a matter of urgency. While the Intra-African trade Agreement is a welcome idea, it depicts the old adage of an "old wine in a new wine skin". The regional arrangements such as ECOWAS, EAC, SADC and other arrangements attest to the fact that apart from COMESA which, today stand as the largest trade block within Africa, none of these regional trade organisations had account for international trade growth within the region since their establishment.

II. STATEMENT OF THE PROBLEM

There is still a missing link in African trade growth irrespective of the sub-regional and intra-Africa trade arrangements for trade and economic cooperation. There is the need to further reinvent the wheels of trade promotion and development at the international trade in order to compete globally as most of the promises of boosting the trade of Africa through WTO membership have failed the region because of the rules of GATT as annexed to WTO. The fundamental idea that 'no cap fits all' was the reason behind the Special and Differential (S&D) treatment arrangement at

WTO. What is not clear is what exactly does the region intend to achieve where it trades within her region? Can this type of trade amount to building bridges for balance of payment, industrialisation and raising export promotion internationally? Can the intra-African trade agreement automatically qualify Africa as a single trade block which is poised to compete internationally?

Africa is endowed with immense natural resources⁴ but Africa still remains one of the poorest continents in the entire universe. Africa⁵ is blessed with natural resources and ought to be a role model for other countries but countries such as China, India and South Korea are well ahead of Africa. It may be argued also that the problem of poverty in Africa is human causation in terms of economic crimes and institutional development. Furthermore, while these other countries have leaped above poverty, have created jobs, Africa is still searching for her bearing in trade development. Africa's economic growth experience is characterised by heavy debt burden, institutional decay and trade subservience predicated under human inefficiency. Part of the reasons is that after independence, most countries had relied on foreign aid from Overseas Development Assistance (ODA) for their economic development. Also, trade liberalisation was accepted with open arms in the region instead of Africa to work out her own modernisation of trade liberalisation in accordance with her pace in economic growth. The problem of African trade was multiplied when Most Favoured Nations, (MFN), Quantitative Restriction, Non-discrimination, Special and Differential Treatment rules of General Agreements on Tariffs and Trade (GATT) and the exceptions clause to the rules of Balance of Payment (BOP) which were initially thought by Africans to be favourable to promote their trade development. However, it was later discovered by Africans that these rules fettered the regions trade growth initiatives. The above realisation that Africa may never develop her trade through the world trade gave rise to the inward reasoning of the need to solve trade problems in Africa through various regional integrations already discussed above.

A. Legal Framework for African Development Strategies

The New Partnership for Africa's Development (NEPAD)'s legal framework was adopted in 2001 by the OAU's 37th Summit and ratified by the AU in 2002 at its first summit, AU pledged to get rid of poverty and attain a sustainable path of growth on the continent.⁶ However, it appears that NEPAD came too late because some damages in Africa's trade development had been done since the formation of GATT rules. The expectation at the establishment of NEPAD is anchored on the recognition that African countries have the primary responsibility for improving economic and social conditions on the continent.⁷ Sequel to the above is the

⁴ Obonye, J., "The Quest to Achieve African Renaissance: Reflections on NEPAD" (2012) Vol. 5, *The Journal of Pan African Studies*.

⁵ For example, Nigeria has many natural minerals resources apart from crude oil and Gas.

⁶ Norbert, F., Nsouli, S. M. "The New Partnership for Africa's Development (NEPAD): Opportunities and Challenge" (2003) *IMF Working Paper*. www.imf.org/external/pubs/ft/wp/2003/wp0369/pdf (accessed on July 26, 2017).

⁷ *Ibid*.

principle that critical reform was necessary for Africa to achieve a successful economic cooperation and development, improve quality of living standard of her people resting on the assurance of good governance. More recently at the front burner, apart from the various regional arrangements is the Intra-African trade Agreement signed by some African countries and the African Continental Free Trade Areas being proposed to propel trade growth in Africa. Intra-African trade is another initiative embarked upon by African leaders to boost Africa's trade within Africa. The continental free trade arrangement being proposed is yet to take the goal post. While the above ideas are good, the lack of institutional framework upon which industrialisation may emerge for manufacturing of products to compete with the world standard robs Africa of competing globally for the main time. This trend will continue until Africa realise and put her thought process together, more heavy debt, human suffering, unintended emigration, deprivation, loss of human dignity and hope in Africa will be the order of the day.⁸ It is further argued that the global development communities cannot be too wrong about the same ideologies of Africa's economic development, or will it be correct to say that the whole ideas about the development of African continent have been wrong or the impressive fight against poverty by the World Bank, the United Nations, the Bill Gates and Rockefeller foundations, the Overseas Development Assistance (ODA) and other economic policy experts are built on sand.

The international community has sought different methods of aiding Africa to grow economically, but most of the steps have failed. For instance, the proposal by G.7 that industrialised nations contributes 0.7 percent of their GNP since 1968 did not aid trade or human development in Africa. There has been a renewed call on developed countries to devoting of 0.7 percent for Overseas Development Assistance (ODA)⁹ since the proposal was made; only a few countries are currently meeting the target such that the average ODA level is far from reaching the target. One side of the arguments is that the rich countries with their political influences have used IMF and World Bank and ODA to their own advantage and thereafter, economically subjugated and restricted Africa's development both in trade through the application of GATT rules. The implication is that Africa is put to certain trade disadvantages. Opinions are divided on this debate.¹⁰ The problem is how can Africa expects genuine

economic development from aid dependency when most of the aid is never free as there are conditions attached to aid from developed countries. In Africa, poverty is viewed from different perspective.¹¹ Mr. Yinu said it is possible that the problem of poverty in Africa may be such that the people of the so-called underdeveloped world have been systematically betrayed by technocrats in charge of global development agenda.¹² The world is imbalanced as few people live in luxury while billions are in misery, deprivation and despair. This is not strange because what is fair is an elastic word and debatable from both sides of the divide. There are divergent views from writers and economist on how to develop African trade. Some believes that Africa should be left to take up the challenges of developing her economic destiny.¹³ Others believe that Africa has operated on false premises by expending billions of dollars to prop up the very systems that undermine poverty by the donor agencies. Writers like William Easterly,¹⁴ Jeffrey Sachs¹⁵ and Paul Collier¹⁶ have suggested what they believed to be the problem with development in Africa and had at various times proffered what they also believed to be the solutions. Apart from their approaches, none of them really talked about the importance of the role of Africa's own trade institution as a catalyst for trade development on the continent. Furthermore, the writers failed to question why aid or GATT rules as annexed to WTO failed to promote trade growth of Africa produce/¹⁷ It appears that there is a conspiracy of silence from the grant makers with good intentions who failed to challenge non conformity of (ODA) over the rights of the poor countries they intend to liberate from poverty. Also worrisome is the unaddressed question of why the continent of Africa is said to be a 'Whiteman's burden',¹⁸ and why the poor countries are called the 'bottom billion'.¹⁹ The last fifteen years, have witnessed calls on the continent of Africa for a paradigm shift from depending on foreign aid to trade in order to energize the dying industries. This call is partly responsible for the

SUFFER THE INDIGNITY OF OPEN DEFECACTION AND TOO MANY LACK BASICS LIKE CLEAN WATER; FIGHTING FOR GENDER EQUALITY AS GIRLS AND WOMEN ARE ESSENTIAL TO BUILDING HEALTHIER AND MORE SUSTAINABLE COMMUNITIES.

¹¹ Yunu, M., "Creating a World Without Poverty: Social Business and the Future of Capitalism" (2009) <http://www.goodreads.com/work/quotes/1554281-creating-a-world-without-poverty-social-business-and-the-future-of-capi>. (accessed on May 9, 2017).

¹² Ibid.

¹³ Moyo, D. (ed.), "Dead Aid: Why Aid is Not Working and How there is a Better way" (2009) *Penguin Publications, New York*.

¹⁴ Easterly, W., (ed.), "The Tyranny of Experts: Economists, Dictators, and the Forgotten Rights of the Poor" (2015) Vol.53, no. 1, *Journal of Economic Literature*. See Easterly, W., (ed.), "[The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done So Much Ill and So Little Good](#)" (New York: The Penguin Press 2006).

¹⁵ Sachs, J., (ed.), "The End of Poverty: Economic Possibilities for Our Time" (2005) *Penguin Press: New York*.

¹⁶ Collier, P., (ed.), "The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done about It. Vol. 45, No. 1, pp. 121-122. *Journal of Peace Research, Sage Publications, Ltd, 2008*. www.jstor.org. (accessed on April 6, 2017).

¹⁷ Smith, A.D., "Is Trade, Not Aid, the Answer for Africa" (2009). <http://www.theguardian.com/business/2009/may/25/africa-entrepreneurs-charity>. (accessed on April 7, 2017).

¹⁸ Easterly, W., (ed.), "The White Man's Burden: Why the West's Efforts to Aid the Rest Have Done so Much Ill and So Little Good" (2006). *Penguin, New York*.

¹⁹ *Supra note 14 at page 6.*

⁸ UNCTAD, "Foreign Direct Investment in Africa" (1999) *New York*. Available on www.unctad.org/en/doc/ipoiteitem1501.pdf. (accessed on April 4, 2017).

⁹ Heller, P. S., Gupta, S., "Challenges in Expanding Development Assistance" (2002). <https://www.imf.org/external/pubs/ft/pdp/2002/pdp05.pdf>. (accessed on May 22, 2015).

¹⁰ PROLMAN, N., "SO WHAT DOES A WORLD WITHOUT EXTREME POVERTY ACTUALLY LOOK LIKE?" (2015) [HTTPS://WWW.GLOBALCITIZEN.ORG/EN/CONTENT/SO-WHAT-DOES-A-WORLD-WITHOUT-EXTREME-POVERTY-ACTUA](https://www.globalcitizen.org/en/content/so-what-does-a-world-without-extreme-poverty-actua). (ACCESSED ON MAY 9, 2017). PROLMAN, IS THE DIRECTOR OF CAMPAIGNS & EVENTS AT CODE REDD, AN ENVIRONMENTAL NGO PROMOTING FOREST CONSERVATION THROUGH THE UN ENVISIONED REDD+ MECHANISM. IN HER VIEW OF A WORLD WITHOUT POVERTY AND INEQUALITY, SHE SAID SHE HAS A SOLID UNDERSTANDING OF THE STEPS THAT NEEDS TO BE TAKEN TOWARDS ACHIEVING THIS GOAL - LIKE IMPROVING ACCESS TO EDUCATION FOR THE 58 MILLION CHILDREN IN THE WORLD WHO ARE OUT OF SCHOOL; ENSURING THAT ALL PEOPLE HAVE ADEQUATE WATER AND SANITATION SYSTEMS BECAUSE 1 BILLION PEOPLE

shift of African to Intra-African trade Agreement and the proposed AfCFTA.

B. Literature Review.

In the last twenty-five years, there has been a shift from the desire to meet purely economic and industrial demands to caring about impact and potential strategy and sources of development assistance in Africa. This includes how the citizens of developing countries have been affected by quality of living standard, such as: health, housing, water and human development. Trade growth has remained bedraggled under the four major rules of GATT/WTO. These include: "The Most Favour Nation, National Treatment, Quantitative Restrictions, Multifibare Agreements, Special and Differential Treatment, Non-discrimination Principle and their exceptions." It needs be noted that the rules of GATT came into being since 1947 when most African Countries were yet to attain independence. The problem with African trade growth is that Africa's trade interest was not represented at the making of the rules of GATT. All the rules are the initiatives of Europe and America when these rules were made. The rules took care of the interests of Europe and America without consideration for developing countries like Africa. This is a problem because it is upon these rules that Africa is currently measured and gives a little share at the international market. These rules are unfavourable to African trade which exports are basically, raw-material base and are mostly agrarian. NEPAD was established as a pathway to tackle economic development by encouraging agriculture as Africa cannot compete industrially on manufactured goods with those of developed nations.²⁰ However, modelling lasting solutions to trade growth and economic development, improvement on the quality of living standards of the people of Africa has posed a lot of problems without solutions over the last two decades. A thin line which runs through most, if not the entire length of the continent's efforts at combating development through economic development is the foreign intervention element in form of colonial patronage of foreign aid assistance. In 2009 when Moyo wrote in her book titled, *'Dead Aid: Why Aid Is Not Working and How There Is a Better Way.'*²¹ The publication of this book became a hot debate between the donor countries on whether most official aid failed in Africa because of the policy strings attached to them such as the 'Washington Consensus.'²² This is because foreign aid whether economic or humanitarian is often from the West or Europe sometimes cloaked with some organisational apparition of a magic stick to solve Africa's development problem which has come under heavy criticism. Some instances of the presence of poverty in Africa are such that the mortality rate of children under five years is 140 per

1000.²³ The life expectancy at birth is only 54 years in Nigeria.²⁴ Further, only 58 per cent of the population has access to safe water and most of these are in major cities.²⁵ Poverty and backwardness of Africa is a stark contrast to the prosperity of the developed world.²⁶ The continued marginalisation of Africa from the international economic participatory process at WTO due to the rules of quantitative restrictions has led to social exclusion of the vast majority of African countries and this constitute a serious threat to her economic stability.²⁷ The WTO Anti-dumping rules of 'used products or second-hand goods' have never been invoked by any African country due to import dependence. ***This writer posits that most of the aid from donor agencies ended up in cities and did not touch the lives of those that really need it. It is argued that aiding a people in the cities is only a tip of the iceberg because where the people living with poverty are felt more in the country side of developing countries.*** ODA dependency in bilateral trade brought less production in African industries due to more importation of foreign goods as most monetary aid are tied up with conditions. The present move for African Continental Free Trade Areas (AfCFTA) is another consideration to liberate Africa by African initiatives. The need for trade and human development on the continent is non-negotiable. This is with the view that there ought to be African solutions to African trade development.²⁸ The various regional integrations have not helped hence the recent Intra-African trade initiatives for Africa to trade within Africa. It is suggested that Africa's trade initiatives needs a cold bathe with a strong legal framework for the establishment of her own trade institution, a made -in-Africa- for -African trade institution for global trade participation as a trade block.

III. INTRA-AFRICAN FREE TRADE AGREEMENT AND AFRICAN CONTINENTAL FREE TRADE AREAS: AN EMERGENCE OF A NEW CRITICAL PRACTICE?

More than forty African countries recently came together with an idea of intra-African free trade arrangement. The singular purpose of this arrangement is for trade within Africa. According to official report from the United Nation, African Continental Free Trade Agreement ((AfCFTA) being proposed is expected to boost and drive up intra-African trade by 52 percent. However, there was not empirical proof of data to buttress the proposition. However, the misgiving behind the effect of this agreement is whether this Intra-African Trade Initiative will respect the protection of infant industries in the respective states of Africa who are parties to this

²⁰ Unagha, A. O., & Okon, H. I., "Library Philosophy and Practice" (2006) Vol. 8 No.2. <http://www.webpages.uidaho.edu/~mbolin/amanze-okon.htm>. (accessed on May 5, 2017).

²¹ *Supra*, note 20 at page 7.

²² Maier, J., "A commentary on why aid failed" (2009) See *contra* discussion by Carl Hammerdorfer where he said that even though foreign aid has mostly failed, rather than shut off the money entirely, aid money should be used to promote business and entrepreneurship. It may specifically, employed to educate entrepreneurs and let's make it viable for venture capital to flow into new businesses.

²³The Foundation for the Development of Africa, "Why NEPAD?" (2005) *NEPAD Dialogue*.

http://www.foundation-development-africa.org/nepad/nepad_general/why_nepad.htm (accessed on May 15, 2017).

²⁴ National Bureau of Statistics., (2016), www.nigerianstat.gov.ng/download/491%20December%202016. (accessed on September 22, 2017).

²⁵ *Ibid*.

²⁶ *Ibid*.

²⁷ *Ibid*.

II. ²⁸ SANDBROO, R., & BARKER, J., "THE POLITICS OF AFRICA'S ECONOMIC STAGNATION" (1985), VOL. 36, NO. 2. *ECONOMIC DEVELOPMENT AND CULTURAL CHANGE*. SANDBROO'S PAPER IS A SUCCINCT EXPLORATION IN LUCID FORM OF AFRICA'S CRISIS.

agreement.²⁹ One of the grey areas of this agreement is how exactly it is intended to boost African trade development; this area was not well defined in the signed agreement as development is not automatic. Development takes processes, cooperation and tacit mindset from leaders of African countries. For instance, while it is on record that more than half of African countries signed intra-trade agreement, all committed to cut tariffs on 90 per cent of goods to bolster intra-African trade and push up growth, Nigeria, being the largest economy and most populous nation within Africa is one amongst 11 other countries that refused to sign or join the intra-trade design. While, the initiative is laudable, it is already suffering a set back because, like the Kyoto protocol, the excuse America gave for not signing that Agreement was that it would hamstring her economy. Nigeria, as giant of Africa is not different. The major potholes on the intra-trade African agreement is that as stated by Nigerian President, such agreement must as a matter of policy, irrespective of how good it is, as an object of the continental aspirations, it must and should complement the national economic objectives of each state. The project has also be criticised by the Nigerian Labour congress and the Nigerian Manufacturers' Association, vehemently declaring their interests against the move by stating that such cut off of tariffs from 6.1 to zero would devastate the already ailing economy.³⁰

One wonders if this idea of intra-African trade is not another guise to hoodwink the economies of Africa. For instance, MacLeod, who is a fellow at the African Trade Policy Centre of United Nations Economic Commission for Africa (UNECA), says removing tariffs through implementation of the Agreement can increase intra-African trade by 52 per cent which will boost African trade.³¹ This writer disagrees with this contention. There is no magic in economic growth. It has to be planned. The contention, that trade within the continent could be boosted through the elimination of tariffs, is not easy to assimilate even if it is argued from that angle that African businesses would trade more within the continent, cater for and benefit from the growing African market. One of the arguments adduced by MacLeod is that Intra-African exports are more diversified and useful to Africa's economic development. Agreed, Africa's external trade mostly comprises of extractive products easily affected by economic shocks, what African needed to have examined before this rush into Intra-Trade Agreement is the causative effect of the Agreement in the long run in the interests of sustainable economic development.³²

²⁹ Mwai, C., "How CFTA Will Boost Intra-African Trade" (2018). Available at <http://www.newtimes.co.rw/section/read/230886/>. Accessed on 9/4/2018.

³⁰ See comments of Nigeria on Continental Free Trade Agreement, "Forty African Nations Signed Continental Free Trade Deal." Available at <https://www.ft.com/content/1c153802-2d0f-11e8-9b4b-bc4b9f08f381>. Accessed on 22/3/2018.

³¹ Adekoya, F., "Tariff Removal Under AfCFTA Can Increase Intra-African Trade by 52 Percent". The Guardian Newspapers, March 28, 2018. Available on <https://guardian.ng/business-services/tariff-removal-under-afcfta-can-increase-intra-african-trade-by-52>.

³² *Ibid.*

It has equally been argued that the termination of trade barrier is certainly important but must be complimented with policy measures to boost capacities.³³ In relative terms, individuals are considered poor when their financial position compares is unfavourably with an average living standard in society – what the United Nations describes as the "inability of individuals, households, families, or entire communities to attain a minimum and socially accepted standard of living." The aim of intra-trade within Africa according to the report of 2013³⁴ is to strengthen the private sector to boost African trade in intra-trade nature. The report argues further that in order for African Countries to reap developmental gains from intra African trade and regional integration, there is need to place the building of productive capacities and domestic entrepreneurs at the heart of the policy agenda for boosting intra-regional trade.³⁵ The writer is of the view that while intra-African trade is another good start, what African need is the pooling of resources from members states into one economic organisation that will favourably compete at the international community market such as World Trade organisation. The place of intra-African Trade is not the same thing as establishing a single trade institution in Africa. The following are some of the pertinent questions raised at the 16th Session of the United Nations on African trade and Development in 2013.

- (i) What are the opportunities for cross border trade in African and why most of the opportunities are not been fully exploited?
- (ii) How can African countries enhance implementation of existing regional agreement to boost intra African trade?
- (iii) What factors limits the capacity of African enterprises to produce goods and services that are competitive in export markets?
- (iv) How can African Countries ensure that intra-African trade is driven primarily by national and regional entrepreneurs to maximise benefits for Africans?
- (v) How can the benefits of regional trade be widespread and distributed across countries?
- (vi) What are factors reasonably foreseeable as inhibiting intra-African trade and how can Africa come out such problems?

The 2013 UN report on African trade had it that intra-African trade presents opportunities for sustained growth and development in African.³⁶ The seizing of this opportunities can only be through private sector dynamism which should be unlock thereby creating development which would be based on approach to integration to be adopted. However, the report of 2009 was on strengthening regional economic integration

³³ See United Nations Conference on Trade and Development Trade and Development Board, Sixtieth session. "Economic Development in Africa Intra-African trade: Unlocking private sector dynamism."

³⁴ *Ibid*

³⁵ *Ibid.*

³⁶ UNCTAD, "UNCTAD'S support to New Partnership for Africa's Development (NEPAD) Planning and Coordinating Agency" (2013). Available on <http://www.un.org/en/africa/osaa/pdf/unsystemfolder/2014/unctad2014.pdf>. (Accessed on September 25, 2018)

for the development of Africa while the report of 2011 is on fostering industrial development in Africa in the new global environment. In all these, the present report of 2013 differs in the following areas.

Unlike previous studies, the 2013 studies stresses on how to incorporate the private sector into continuing efforts to boost intra-African trade. It focuses on how to strengthen the private sector to promote intra-African trade. On the other hand, it argues that the lack of productive capacity is a major obstacle to expanding intra -African trade and should be given as much attention by African policymakers using the elimination of trade barriers as a test case. It also provides new and specific ideas on how to enhance implementation of existing regional trade agreements with a view to boosting intra-African trade. The fourth difference is that it stresses the need for an alternative approach to regional integration in Africa. The new approach calls for a move away from a linear model of integration, which lays undue emphasis on processes, into a more pragmatic and results -oriented approach to integration. African Union summit sees the intra-African trade as watershed for African economic and trade growth. The intra-African trade was viewed as an urgent initiated which immediate implementation would provide quick gains, impact on socio-economic development and enhance confidence on the achievement of its goals. This is supposed to be owned by Africa and to serve as an agenda for the 2063 Summit. The whole idea that Africa should trade more within the region may have been the force behind this intra-African trade. However, regional integration within African is not new as it had existed for more than twenty-five years.³⁷ According to Andre C. Jordan, The multiple memberships of numerous regional economic communities (RECs) have seemingly contributed to the slow progress of inter-regional integration on the African continent.³⁸ While the assertion by Jordan may be true, the belief that intra-regional trade would enhance more trade and cooperation cannot be immediately confirmed as Africa faces a complicated grid of multiple and overlapping membership of both big and small which trade capabilities are dissimilar.

Some of the argument canvassed for intra-African Trade Agreement includes the following:

African trade failed to serve as catalysts for sustainable growth due to her size, structure and direction. That Africa's membership of World Trade Organisation has not yielded any positive growth on African trade due to the rules of GATT which, at its formation did not contemplate Africa as most African countries were under their colonial masters. Africa's global trade has a small share of the global market which so insignificant resulting to a decline over the decades of less than 8 percent. The export trade from Africa is mostly on primary commodities not on finished industrial produce which made price very unstable with relatively slow growth.

It was argued that Africa relies on high external orientation and this has had adverse implication on her economic growth and development. Presently, Intra – African trade stand at 10 percent compared to America and Asian which have 60 per cent respectively. Another reason for intra-African trade initiative is that African countries do not trade with each other much and this means that Africa has not been able to fully harness and tap the synergies and complementarities within her region. This writer is of the view that these advantages which have been proposed can only work if the heads of states and government have the willing spirit and this is often difficult to predict at in the continent of Africa.

A. Differentiating Intra-African Trade Agreement from Regional Trade Treaties in Africa.

Regional trade in Africa is not new. There are various trade Agreements and Associations that have come together for common good of trade and free movement within their region. Thus, there are Economic Communities of West African States (ECOWAS) South African Development Communities (SADC), East and Central African Communities (ECAC) and other block trade organisations such as Commodities of Eastern and Southern Africa and trade law like the Harmonisation of Business laws in Africa which originated from the Francophone countries. According to Dr. Faizel Ismail,³⁹ the Continental free trade zone within Africa being proposed is the most ambitious expression of another dream and vision of Pan-African leaders, the likes of Kwame Nkrumah Genorge Padmore, Leopold Senghor and W.E. B. Du Bois. The idea started in 2015 which was focused on sole trade and regional integration of the African Continent. It is a fifty (50) year program and it is to form the main Agenda of 2063 vision for the transformation of the African states. The question begging for answer is how can this lofty idea of continental free trade zone aid the economic advancement of the African states in the face of many protracted human errors which remained the bane of under development in Africa? It is not as if this writer is against trade development, in fact it is quite the opposite. The writer advocate for trade development in terms of Africa having its own trade organisation but noting the existence of political differences and border policies, continental free trade zone may not have been the answer to the problem of development in Africa. Three major areas of negotiation were suggested by Dr. Ismail⁴⁰ and they include the following:

- i. That Africa must ensure that the architecture of regional integration is asymmetrical in favour of the Small Vulnerable Economies (SVEs) and the Least Developed Countries (LDCs).
- ii. That African must priorities the fullest participation of all Africa's members in regional productive value chains that enhance Africa's industrialization.

³⁷ *Ibid.*, at page 1

³⁸ UNECA (United Nations Economic Commission for Africa), 2010. *Assessing Regional Integration in Africa, IV: Enhancing Intra-African Trade*. ECA Publications and Conference Management Section (PCMS), Addis Ababa, Ethiopia.

³⁹ Ismail, F., "Trade & Industrial Policy: Working Paper Advancing the Continental Free Trade Area (CFTA) and Agenda 2063 into context of the changing Architecture of Global Trade " (2016). *Trade & Policy Strategies*. Available at info@tips.org.za. Accessed on 10/4/2018.

⁴⁰ *Supra*, note 50.

iii. Africa must strive to facilitate the cooperation of member states towards the building of trans- border infrastructure.

The fact deduced from Ismail's suggestion is that this vision and agenda for the AfCFTA and Agenda 2063 will provide Africa with a powerful tool and negotiating mandate to drive the process of engagement between Africa and its main trading partners, multilaterally in the World Trade Organisation and bilaterally with the European Union, the United States, China and other countries.⁴¹ The belief that the narrative of "Africa is rising" presently built on a wide recognition by some writers is well recognised.⁴² It is further believed that the changing architecture of global change of future of Africa is also making her future more hopeful. The present assertion is a divergent view from those of the past.⁴³ It is arguable to say the present view has replaced the past views without substantiating how Africa will change her hopeless poverty to a robust industrial continent. The misgiving in the whole arrangement of the intra-Africa trade Agreement and the proposed AfCFTA is whether from the past experience with the numerous trade regional organisations which can give assurance to Africans that the present step is not a commodification of the old practice or a case of old wine in a new wine skin?

IV. CONCLUSION/RECOMMENDATION

Writers like Bach⁴⁴ and Baldwin⁴⁵ had earlier stated that trade integration which forms treaty between different economies (and in case of Africa divergent) economies poses controversy in terms of politics and economic rivalries. Studies in some of the existing literatures on trade liberalization shows that the gain of liberalisation far outweighs the short-run adjustment costs. However, African countries are still carrying the burden of free trade which has not help develop the economy since the commencement of globalization of trade. Moreover, according to United Nations Conference on Trade and Development,⁴⁶ there African Continental Free Trade Areas may yet witness some hiccups in the areas of distribution of cost and benefits and variation of the numbers of sensitive products. Something similar to the "problem with the definition of 'like product' in WTO rules" where the Appellate body ran into difficulties of

⁴¹ *Ibid.*

⁴² Deloitte & Touche, "The Deloitte Consumer Review". Africa: A 21st Century View. (2014),

[http://www2.deloitte.com/content/dam/Deloitte/au/Documents/international/Deloitte & Touche \(2014\). The Deloitte Consumer Review. Africa: A 21 St Century View.](http://www2.deloitte.com/content/dam/Deloitte/au/Documents/international/Deloitte%20and%20Touche%20-%20Africa%20-%202014%20-%20The%20Deloitte%20Consumer%20Review%20-%20Africa%20-%20A%2021%20Century%20View.pdf)

[http://www2.deloitte.com/content/dam/Deloitte/au/Documents/international/specialist/deloitte-au-aas-rise-african-middle-class-12.pdf.](http://www2.deloitte.com/content/dam/Deloitte/au/Documents/international/specialist/deloitte-au-aas-rise-african-middle-class-12.pdf)

⁴³ See also, Deloitte & Touche .(2013).Deloitte on Africa, The Rise and Rise of the African Middle Class,

[http://www.deloitte.com/assets/Dcom-India/Local%20Assets/Documents/Africa/Deloitte_on_Africa-%281%29_rise_and_rise.pdf.](http://www.deloitte.com/assets/Dcom-India/Local%20Assets/Documents/Africa/Deloitte_on_Africa-%281%29_rise_and_rise.pdf)

⁴⁴ Bach, C., "Regionalism in Africa: Genealogies, institutions and trans-state networks" (2016), Routledge, Oxford,.

⁴⁵ Baldwin, R. (2013), "Multilateralising 21st century regionalism", Paper written for OECD. See <http://voxeu.org/article/multilateralising-21st-century-regionalism>

⁴⁶ United Nations Conference on Trade and Development Research Paper No.

15 (2018), UNCTAD/SER.RP/2017/15.

the technicalities of arriving at the definition of which product is in "likeness of the other." Furthermore, the continental free trade zones may experience slow pace and sluggishness as transition process can be very difficult if most products and factor markets are not sufficiently flexible.⁴⁷ Most of the existing regional organizations in the current trade integration arrangement are not flexible. This has, in most cases reduced the long term benefits of trade liberalization.

The renewed call for the establishment of a continental free trade area bothers on the enthusiasm to quicken the initiatives such as those of trade tripartite agreement of COMESA-SADC-EAC resulting to the Africa's Common Market. Taking this further, the decision of the African Ministers of Trade to fast track the establishment of an AfCFTA was during the 2010 conference and 2012.⁴⁸ Parts of the advantages canvassed by the African leaders for the continental trade area move includes deficient telecommunications services and electricity which presently are concentrated in certain areas which other areas need to also benefit. On the one hand, it is argued that it is much easier and very comfortable for businessmen in Africa to deal with their counterparts in Europe and North America. The question is whether this is a forecast or what are the reasons why this companionship in trading outside Africa has not taken place with the much available regional integration in Africa?

Finally, it is fact that most of the Africa's trading partners produces what they do not consume and consumes what they do not produce. These aspects have not been taken into consideration while preparing the intra-trade agreement which most states in their lust for trade growth rushed to sign the agreement. Good as this policy seems to be, the weakness attached may frustrate the effort of the policy makers.⁴⁹ The regional integration accounts for the primary reasons for the slow achievement of the regional trade growth as each region fights in piecemeal. Bearing this in one hand, one wonders if the idea of this quest for Intra-African Trade Agreement and the proposed African Continental Free Trade Areas is not a "commodification of old practice and a maintenance of the new order," given that the problems of conflicting trade rules, cross-border agreement, language barrier and insecurity were not tackled by the said agreement, there is room for suspicion if the agreement would work effectively.

⁴⁷ *Ibid.*

⁴⁸ E.C.A., AU., "Boosting Intra-African Trade" Issues Affecting Intra-African Trade, Proposed Action Plan for boosting Intra-African Trade and Framework for the fast tracking of a Continental Free Trade Area.

⁴⁹ Tafirenyika, M., "Intra-Africa Trade: Going Beyond Political Commitments: Progress will come when the Agreement are Implemented", (2014),

[http://www.un.org/africarenewal/magazine/august-2014/intra-africa-trade-going-beyond-political-commitments.](http://www.un.org/africarenewal/magazine/august-2014/intra-africa-trade-going-beyond-political-commitments)

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