

PROMOTING LOCAL CONTENT AND ADHERENCE TO W ORGANIZATION (WTO) TRADE LIBERALIZATION STRIKING THE RIGHT BALANCE FOR NIGERIA

*Rebecca Adedayo Ebokpo**

Abstract

This article explores the need to balance the contending forces of protectionism and liberalization in Nigeria's local content and adherence to the World Trade Organization (WTO) policies in the areas of trade and commerce, labour and employment, manufacturing, exchange, monetary and expatriate policies. It argues that in modern times, no nation can hence the need to intermingle especially on the plane of trade and investment arrangements. It discusses the concepts of local content and trade liberalization and traces the history and objectives of the WTO. It argues that since the era of Structural Adjustment Program (SAP) coupled with the drive to attract Foreign Direct Investment (FDI) as well as International Monetary Fund (IMF) and World Bank (WB) loans conditions, Nigeria's economy has been liberalized with a concomitant devaluation of the Naira, paralysis of local industries and unemployment. It examines the anatomy of local content, the various local content promotion efforts of the government. The article further argues that liberalization of the manufacturing and exporting economy; therefore, it recommends the revamping of Nigeria's economy beyond oil, improvement on Small and Medium Scale industries, strengthening of the Naira as a legal tender, and introduction of viable fiscal policies would engender a balance between adherence to WTO trade liberalization policies and Nigeria's local content.

Keywords: Economy, Nigeria, Naira, Trade, World Bank.

I. Introduction

From time immemorial, no single nation has been self-sufficient. Human wants are numerous and insatiable.¹ This has made interrelationships between individuals and nations indispensable.² One of the platforms through which people of the world interact and come together is international or cross border trade. Thus, international trade has become a veritable tool for the satisfaction of human needs.

International trade revolves around various interests ranging from national to international, thereby making the need for regulation. Regulation in this regard deals with the issues of tariffs, duties and

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*Rebecca Adedayo Ebokpo, LL.B (Hons) UNIABUJA, BL, MBA (in view) Barrister at Law, Supreme Court of Nigeria. Telephone: +2347068470752, Email: rebeccaebokpo@gmail.com

conditions, Nigeria's economy has been liberalized with a concomitant devaluation of

the Naira, paralysis of local industries, and increased unemployment. It examines the anatomy of local content, the various local content protection and promotion efforts of the government. The article further argues that liberalization is only beneficial to a manufacturing and exporting economy; therefore, it recommends the revamping and diversification of Nigeria's economy beyond oil, improvement on Small and Medium Scale Enterprises (SME), strengthening of the Naira as a legal tender, and introduction of viable fiscal policies. These measures would engender a balance between adherence to WTO trade liberalization policies and promotion of Nigeria's local content.

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I. Introduction

From time immemorial, no single nation has been self-sufficient; in fact, human wants are numerous and insatiable.¹ This has made interrelationship between individuals and nations indispensable.² One of the platforms people and nations of the world interact and come together is international or cross border trade and commerce.³ Thus, international trade has become a veritable tool for the satisfaction of human needs.

International trade revolves around various interests ranging from individuals, national to international, thereby making the need for regulation imperative. Regulation in this regard deals with the issues of tariffs, dispute resolution, negotiation, policy formulation and implementation. Thus, in 1995, the World Trade Organisation (WTO) was formed in advancement of the General Agreement on Tariffs and Trade (GATT).⁴ Since its formation, the WTO agreement and its annexes have strengthened existing international trade discipline, extended international trade law rules into new economic sectors, and provided a unified common institutional framework for the conduct of trade relations among its members.⁵

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*Rebecca Adedayo Ebokpo, LL.B (Hons) UNIABUJA, BL, MBA (in view) Barrister and Solicitor of the Supreme Court of Nigeria. Telephone: +2347068470752, Email: r.ebokpo@gmail.com
Sarnobat, S., 'Adam Smith and His Theory of Human Wants' <www.indiastudychannel.com> accessed 12 May 2019.

²Alisigwe, H. C., 'Regionalism as a Tool for International Economic Development: The ECOWAS Paradigm' in Nnabue, U. S. F., *Thematic on the Law of Development* (Ed) (Owerri, Applause Multi-Sectors Ltd., 2017) 465-466.

³Shen, S., 'Trade and Sustainable Development: Friend or Foe?' available online at <<https://www.ciel.org/trade-sustainable-development-friends-foes/>> accessed 13 May, 2019

⁴History of the Multilateral Trading System" Available Online at <https://www.wto.org/english/thewto_e/history_e/history_e.htm> accessed 10th May, 2019.

⁵Hoekman, B., "The WTO: Functions and Basic Principles" available online at <http://www.profesores.ucv.cl/mberthelon/hoekman%202002.pdf>> accessed 16 March, 2019.

Nigeria is a member of the WTO and prior to its formation Nigeria has, particularly since independence experimented various economic policies towards liberalisation of its economy, aimed at attracting Foreign Direct Invest (FDI).⁶ Before the discovery of oil, in commercial quantity and its exploitation, Nigeria had an agrarian economy; dominated by the groundnut pyramids of Kano, the cocoa of the South West, palm oil and other farm produce in the South East. However, the discovery of oil led to a substantial abandonment of agriculture, for an oil-driven economy with its attendant consequences on the environment, as exemplified in the Niger Delta Region (NDR).⁷

The WTO and other international bodies have aggressively engaged in promotion of trade liberalisation policies amongst nations of the world. The WTO trade liberalisation policy involves the elimination of non-tariff barriers to imports, the rationalization and reduction of tariffs, the institution of market-determined exchange rate, and removal of fiscal disincentives and regulatory deterrents to exports.⁸ The motive is to create competitive atmosphere between local and foreign industries.⁹

However, it is apposite to note that trade liberalisation as an economic policy, is well intentioned but its benefits or otherwise is dependent on individual nation's economic structure and policies. Given the fact that Nigeria is a mono-economy, heavily dependent on oil, with an almost non-performing agriculture, manufacturing, and export sectors, how beneficial would be the liberalisation of her economy? Presently in Nigeria, there is an astronomic level of unemployment and underemployment,¹⁰ insecurity,¹¹ obsolete and lopsided commercial disputes'

⁶ Eze, U. Z., Eze, T. C. and Okonkwo, T., "An Appraisal of the Legal Framework for Foreign Direct Investments in Nigeria and Implications for National Security and Development" Proceedings of the 50st Annual Conference of the Nigerian Association of Law Teachers (NALT) (2017) 581-587.

⁷ Ezike, E. O., "Resource Control, True Federalism and the Niger Delta Question" 14 *The Nigeria Juridical Review* (2016) 233-235.

⁸ Bakare, A.S., "The consequences of Trade Liberalisation for Economic Growth in Nigeria: A Stochastic Investigation" 1 (14) *Contemporary Marketing Review*, (2011) 1423.

⁹ Ajayi, S.I., "What Africa Needs to do to Benefit from Globalisation" 38(4) *Finance and Development* (2001) 24.

¹⁰ Odejimi, D. O. "The Impact of Trade Liberalisation on the Nigerian Labour Market" 3(4) *International Journal of Economics, Commerce and Management*, (2015) 5.

¹¹ Ekwoma, O. J. H., "Nexus Between Poverty and Kidnapping in Nigeria: A Case Study of Kogi State Axis" 8(1) *The Journal of Jurisprudence and Contemporary Issues* (2016) 259-263.

resolution framework,¹² increase in casualization of labour,¹³ lack of adequate support for Small and Medium Scale Enterprises (SMEs), devaluation of the Naira, corruption¹⁴ and infrastructural deficits; as a result, liberalizing trade in Nigeria cannot be beneficial to her. Thus, there is a need to ensure that liberalizing the economy will be beneficial to Nigeria and Nigerians as well as foreign investors.

This article strikes a balance between WTO trade liberalisation policies and the need to protect and promote Nigeria's local content in terms of growing SMEs, job creation, diversification of economy, and increase in exports while minimizing imports. It vehemently argues that unless Nigeria tackles the problem of infrastructure deficits exemplified by erratic electricity supply, insecurity, diversification of the economy from mono to multi economy, curbing of casualization of labour, strengthening of the Naira, revamping of manufacturing and processing industries, restricting importation of goods that can be cheaply produced locally, etc., trade liberalisation will be a parasitic experiment instead of a symbiotic cohabitation.

For the purpose of presentation, this essay is divided into six sections. Section one is the general introduction. Section two discusses the meaning, evolution and objectives of WTO, with regards to its trade liberalisation policy. Section three discusses the various liberalisation policies embarked upon by Nigeria in a bid to improve her economy, highlighting their impacts on her economy. Section four examines the effects of trade liberalisation on Nigeria's local content, focusing on the economy, labour, employment, manufacturing, export, and banking sectors. Section five is a synthesis of trade liberalisation and local content balance through recommendations. Section six contains the conclusion and recommendations.

II. Evolution and Objectives of The WTO, and Nigeria's Local Content

The World Trade Organisation (WTO) as an inter-governmental organisation was established in 1995 as the legal and institutional foundation of a multilateral trading system.¹⁵ The establishment of WTO is a product of the lengthy (1986-1994) Uruguay Round of negotiations by some nations with a view to harnessing global

¹² Adebisi, A. L., "An Appraisal of the Grounds for Setting Aside an Arbitral Award under the Arbitration and Conciliation Act" 5 *Nnamdi Azikiwe University Journal of Public and Private Law* (2013) 243.

¹³ Kalejaiye, P. O., "The Rise and of Casual Work in Nigeria: Who Loses, Who Benefits?" 8 (1) *African Research Review* (2014) 160-162.

¹⁴ Akintola, N., "Corruption and Rule of Law: Wither Nigeria" in Onigbinde, A. and Ajayi, S., *Contemporary Issues in the Nigerian Legal Landscape*, (2010)175-180.

¹⁵ The Encyclopedia of the Nations "The World trade Organisation (WTO) Structure" available online at <www.nationsencyclopedia.com/united-nations-related-agencies/index.htm> accessed 1 may 2019.

trade collaborations.¹⁶ The WTO oversees the various trade agreements negotiated by its members, including the Trade Related Aspects of Intellectual Property Rights (TRIPS), the main objective of TRIPS is to promote the effective and adequate protection of the intellectual property rights on a global scale, General Agreement on Trade in Service (GATS) (the GATS has two main objectives, to ensure that all signatories are treated equally when accessing foreign markets; and to promote progressive liberalisation of trade in services, overtime, eliminating trade barriers to enable further participation in one another's markets),¹⁷ and General Agreement on Tariffs and Trade (GATT).¹⁸

By reducing tariff barriers and eliminating discrimination in international trade, the GATT aims at expansion of international trade, increase of world production by ensuring full employment in the participating nations, development and full utilisation of world resources and raising standard of living of the world community as a whole. The inability of some nations after the 2nd World War (WW2) in seeking world peace and economic prosperity, led to the attempted creation of the International Trade Organisation (ITO), thus, GATT was created in 1947. The belief was that had there been international institution to respond to the socio-economic crisis of the 1930s, the 2nd World War would not have occurred. The Treaty of Versailles that ended the 1st World War was perceived to have inflicted a dent of the pride of Germany coupled with the great depression that ensued after a result of prosecuting the World.

The Nazis hegemony capitalised on this to instil a national supremacy consciousness in the Germans. In 1928 the Pact of Paris was signed by post 1st WW Countries to the end that war would not be used as a means of settling disputes.¹⁹ In 1929, there was a severe economic crisis (Wall Street) with catastrophic impact. This led desperate American lenders to recall their money at home and abroad which led to a wave of bankruptcies and widespread unemployment and world trade had a spiral slump. In Germany, over 30% of the workforce was rendered unemployed by 1932 and industrial output was halted this made it difficult for it to honour its debt abroad.²⁰

¹⁶ Pollock, R., "Basic Facts about the WTO" Available online at <www.rufuspollock.org/wto/wto/index.htm> accessed 20 April 2019.

¹⁷ See <<https://www.wto.org>> accessed 2 December 2019.

¹⁸ Adeoye, R. O., "A Survey of the Institutional Framework and Operation of the world trade Organisation" 3 *Law and Policy Review*, (2012)124.

¹⁹ Eisenhower, J. S., "Europe after World War 1: November 1918-August 1931" available online at <<https://www.howstuffworks.com>> accessed 2 December 2019.

²⁰ *Ibid* 3.

As a result of this global economic crisis with its concomitant effects, international collaboration to avert economic disaster evaporated as each nation sought ways to protect itself even at the detriment of others.

This economic set back pitched Germany against the West and led Hitler to prosecute Germany superiority agenda which culminated to the 2nd WW.²¹ The period preceding the WW2 was characterized by harsh socio-economic conditions that compelled nations to adopt arbitrary and discriminatory trade barriers in tariffs to cushion the effect of subsisting economic depression as well as maintain local industries and job security. This protectionist posture of nations towards their local industries, at the expense of import and global economic welfare, led to global socio-economic difficulties.²²

At Havana, in 1948, negotiations on the ITO charter were successfully concluded but the ITO could not be implemented because of the failure of the US Congress to ratify the agreement. GATT was aimed at achieving predictability, non-discrimination and stability in international trade and investment by sharing economic benefits from one nation to another. The success of GATT led WTO to incorporate it as one of its focal points. Adeoye has argued that:

The WTO is a forum for international cooperation on trade-related policies and the creation of codes of conduct for member states. These codes emerged from the exchange of policy commitments in periodic negotiations. The WTO can be seen as a market forum in the sense that countries come together to negotiate market access commitments on a reciprocal basis, it is in fact, a barter market.

The objectives of the WTO are contained in the preamble of its instrument, which is that:

international economic relations should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, expanding the production of trade in goods and services; and allowing for the optimal use of the world's resources in accordance with the objectives of sustainable development, seeking both to preserve the environment and to enhance the means of doing so in a manner consistent with their

²¹ *Ibid.*

²² Adeoye, R. O., (n18) 122.

respective needs and concerns at different levels of economic development.²³

Article 3 of the WTO Agreement spells out its functions to include administering of WTO trade agreements, provision of forum for trade negotiations, handling trade disputes, monitoring national trade policies, cooperation with other international organisation such as the International Monetary Fund (IMF), International Bank for Reconstruction and Development (IBRD), Africa Development Bank (AfDB) and World Bank (WB), provision of technical assistance and training for developing countries. The WTO as an international-intergovernmental organisation thrives on five ingrained principles to wit, non-discrimination, reciprocity, binding and enforceable commitments, transparency and safety valves.

The principle of non-discrimination has two components, viz.: “most favoured nation” and “national treatment policy.”²⁴ It requires that a WTO member must apply the same conditions on trade with other WTO members, and both imported and locally manufactured goods and services should be treated equally, once the foreign goods enter the local market.²⁵ The principle of binding and enforceable commitments of WTO agreement seeks to achieve predictability in international trade relations amongst member states.

At this juncture, it is pertinent to examine what local content connotes. Section 106 of the Nigerian Oil and Gas Industry Content Development Act²⁶ defined local content as “the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacity and capabilities through the deliberate utilization of Nigerian human, material resources and services in the Nigerian oil and gas industry.”

The Nigerian Content Development in Information and Communication Technology Guidelines²⁷ defines local content as:

the amount of incremental value added or created in Nigeria through the utilization of Nigerian human and material resources for the provision of goods and services in the ICT

²³ Adeoye, R. O., (n18) 122.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ Section 106, Nigerian Oil and Gas Industry Content Development Act, 2010.

²⁷ The Nigerian Content Development in Information and Communication Technology Guidelines, 2010.

industry within acceptable quality and standard in order to stimulate the development of indigenous capabilities.²⁸

Bello²⁹ in stating the factor necessitating local content enforcement in Nigeria posits as follows:

local content policy came up upon the realization that the international or multinational companies had taken over the exploration, exploitation and production and refining of crude oil and other resources in Nigeria and carried on business in Nigeria using foreigners in every department of the company without the consideration of Nigeria not even for engineering or technical positions.

The above quotation indicates that the idea of local content deals with the degree of involvement of local labour and resources in the economic affairs of a nation, it seeks to ensure that citizens of a nation are actively involved in the wealth creation, resource exploration and exploitation of their nation. It is the amount of value created in Nigeria through the utilization of Nigerian human and material resources for the provision of goods and delivery of services. In fact, it extends to the benefits foreign and indigenous business concerns bring to the locality they are situated in through corporate social responsibility, towards the betterment of their host.

The idea of local content does not seek to discourage foreign participation but to ensure that local participation and resources are not sacrificed; it is geared towards ensuring that a symbiotic relationship ensues and continues between all businesses concerned in an atmosphere of profitable competition. Through local content emphasis, Nigeria can categorize certain undertakings and prescribe a percentage of local participants against foreign by identifying areas of local competence, giving of “preferential” treatment to local/indigenously owned businesses while giving incentives to foreign participants too.³⁰

III. Nigeria’s Liberalisation Policies in Retrospect

²⁸*Ibid.* Guideline No. 9.0.

²⁹ Bello, A. T., “Local Content in the Nigerian Oil and Gas Sector: A Classical Model for Indigenization” Available Online at < <http://papers.ssrn.com> > accessed 18th April 2019.

³⁰ Chigozie, H. N., “Enhancing Local Content in the Upstream Oil and Gas Industry in Nigeria: An Appraisal of Current Policy” 2(1) *OGEL*, 2004, P. 24.

This part of the article examines the various liberalisation policies the government of Nigeria has adopted in a bid to boost Nigeria's economy and their concomitant effects. However, it is apposite to discuss, howbeit passively, the nuances of trade liberalisation. It is a move towards freer trade between two or more countries and entails removal of import quotas and other quantitative restrictions. It also involves the abolition or reduction of import tariff rates, removal of export taxes, removal of protection for infant industries, elimination of non-tariff barriers and devaluation of the local currency.³¹ Trade Liberalisation usually implies tariff rationalization, discontinuation of import licensing and the elimination of marketing boards. It is the removal of obstacles on trade. The motive is to create competitive atmosphere between local and foreign industries.³²

Starting with the structural adjustment programme (SAP) in the mid-1980s,³³ and moving to the current home-grown National Economic Empowerment Development Strategies (NEEDS),³⁴ different reforms in trade and investment components point to the liberalisation stance of the government. The reforms encompass changes in policy directions as well as policy instruments. Investment policy, for instance, witnessed a radical reform as the indigenization policy of the government was abandoned in favour of a liberalized (foreign and domestic) investment regime. In most cases institutional reforms constituted a major component of the package.

Again, in investment policy, the Nigerian Investment Promotion Commission (NIPC)³⁵ was invigorated to discharge its redefined statutory functions. The SAP was a watershed in the history of trade and investment policy reforms in the country. The Programme was able to achieve substantial reduction in average tariffs and saw to the

³¹Odejimi, D. O. "The Impact of Trade Liberalisation on the Nigerian Labour Market" 3 (4) *International Journal of Economics, Commerce and Management* (2015) 2.

³²Oluwaleye, J. M., "Public Policy and Trade Liberalisation in Nigerian Economic Development" 4 (15) *Research on Humanities and Social Sciences*, 2014, P. 92. Available online at <<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.875.8428&rep=rep1&type=pdf>> accessed 26 March, 2019.

³³ Obansa, S. A., "Impact of Structural Adjustment Programme on the Nigerian Economy" 12 (2) *African Update Newsletter*, 2005) 12-20; Ogbona, B., "Structural Adjustment Program (SAP) in Nigeria: An Empirical Assessment" 6 (1) *Journal of Banking* (2012) 19-40.

³⁴Ugoani, J. N. N., "Examination of the Impact of National Economic Empowerment and Development Strategy on Poverty Reduction in Nigeria" 3 (5) *International Journal of Economics and Financial Research* (2017) 65-75; Olusoji, M. O. and Oloba, O. O., "Impact of National Economic Empowerment and Development Strategy (NEEDS) on the Private Sector: A Case Study of Power Sector" 4 (3) *Journal of Public Administration and Governance* (2014) 15-29.

³⁵ Zakari, A. Aliero, H.M., and Abdul-Quadir, A. B., "The Role of the Nigerian Investment Promotion Commission (NIPC) in Attracting Foreign Direct Investment in Nigeria" 8 (7) *European Scientific Journal* (2012) 14-28.

minimal application of quantitative import restrictions. As a comprehensive approach to restructure the Nigerian economy, the Programme contained policies that were complementary to trade and investment especially foreign exchange reform.³⁶

Major objectives of SAP included the restructuring and diversification of the productive base of the economy in order to lessen dependence on the oil sector and on import; the achievement of fiscal and balance of payment visibility; laying the basis for a sustainable non-inflationary or minimal inflationary growth; and reducing the dominance of unproductive investments in the public sector, improving the sector's efficiency and intensifying the growth potential of the private sector.³⁷ Trade liberalisation policy was a major component of the IMF-World Bank structural adjustment programme (SAP).³⁸ Liberalisation of restrictive trade policy regime culminated in the deregulation of foreign exchange market and it was expected this would create jobs, reduce poverty and enhance economic growth performance.³⁹ Given the present situation of things in Nigeria, the outcome of the SAP can easily be identified.

Aside this, in furtherance of its liberalisation stance, successive Nigeria governments have engaged in privatization of national assets. During the Muritala/Obasanjo military junta,⁴⁰ the policy of indigenization was aggressively pursued whereby Nigerians were made to be in control of their economy through transference of ownership of business concerns owned by foreigners to Nigerians.⁴¹ However, this policy was not supported by the West and they pushed for its reversal, which came in through privatization.⁴² As a result, government equity in companies,

³⁶Ogunkola, E. O. and T.A Oyejide "Market Access for Nigeria's Exports in the European Union: An Assessment of the Impact of the Lome Convention and the Uruguay Round 43(1) *Nigerian Journal of Economic and Social Studies* (2001) 1.

³⁷ Nwadugo, N.E., "The Story of Structural Adjustment Programme in Nigeria from the Perspective of the Organised Labour" 1 (7) *Australian Journal of Business and Management Research* (2011) 30-41.

³⁸ Anyanwu, J. C., "President Babaginda's Structural Adjustment Programme and Inflation in Nigeria" 7 (1) *Journal of Social Development in Africa* (1992) 5-9.

³⁹Balogun, E.D., and Dauda, R. O. S, "Poverty and Employment Impact of Trade Liberalisation in Nigeria: Empirical Evidence and Policy Implications" Available online at <https://mpra.ub.uni-muenchen.de/41006/1/POVERTY_AND_EMPLOYMENT_IMPACT_OF_TRADE_LIBERALISATI_ON_IN_NIGERIA_DraftfinalDaudaBalogun.pdf> accessed 11th May, 2019.

⁴⁰ Gen. Murtala Mohammed and Tunde Idiagbon were the Head of the Federal Military Government (FMG) from the 30th day of July 1975 – 13th February 1976 when the former was murdered in a *Coup 'd' etat* and was succeeded by Gen. Olusegun Obasanjo from 13th February 1976 - 1st October 1979. He later contested election in 1999 which ushered in the fourth Republic and won and became the first democratically elected President of Nigeria from 1999-2007 under the 4th Republic.

⁴¹ Ike, D. N. "The Structural Adjustment Programme as it Relates to Development/Adaptation of Technology in Nigeria" Being a Paper Presented at the Workshop on SAP, NIPSS, KUR, Jos 20 September 1988)1-28.

⁴² Ogbuagu, C. S. A., "The Nigerian Indigenisation Policy: Nationalism or Pragmatism" 82 (327) *African Affairs* (1983) 241-266; Yakubu, A. O., "Indigenisation of Foreign Businesses in Nigeria: A

corporations, agencies and parastatals were sold to private individuals and companies, including foreigners.

The same foreigners from whom the equity shares were bought when the indigenisation Decree was promulgated were now being considered for the transfer, control and management of the commanding heights of the Nigerian economy in place of Nigerians.⁴³ Beside its liberalisation efforts, Nigeria has adopted certain measures to protect her local content through statutory control. Section 27 of the Petroleum Act⁴⁴ provides that the holder of a mining lease shall ensure that within ten years from the grant of his lease the number of Nigerian citizens employed in connection with the lease in the managerial, professional and supervisory grades or any corresponding grade shall reach at least 75% of the total number of person employed in those grades.

In addition, the number of Nigerian citizens in any of those grades shall not be less than 60% of the total; and all the skilled, semi-skilled and unskilled workers are citizens of Nigeria. The Executive Order No. 005 of 2018⁴⁵ is another local content promotion framework; it directed the National Office for Technology Acquisition and Promotion (NOTAP) to collate the data of professionals in Nigeria for the purpose of ensuring that for all government contracts, Nigerian companies and firms are given preference in accordance with the Public Procurement Act.⁴⁶ This will ensure that Nigerian professionals and enterprises are given preference in the award of contracts bearing in mind the need to encourage their growth.⁴⁷

The Oil and Gas Industry Content Development Act⁴⁸ protects Nigeria's local content in the industry. Section 2 thereof provides that all regulatory authorities, operators, contractors, subcontractors, alliance partners and other entities involved in any project, activities, operations give priority to Nigerian content.⁴⁹ The Nigerian Industrial Revolution Plan (NIRP)⁵⁰ also protects Nigeria's local content in the solid

Select Bibliography" 23 (1) *A Current Bibliography of African Affairs* (1991) 1-17.

⁴³ *Ibid.*

⁴⁴ Petroleum Act, Cap. P10, LFN 2004.

⁴⁵ Executive Order No. 005 of 2018 signed on 2nd February 2018 by President Muhammadu Buhari.

⁴⁶ Public Procurement Act, 2007.

⁴⁷ Ladan, M. T., "The Force of Law and Limits of Presidential Executive Orders in Nigeria: Lessons from the USA" 3(3) *Miyetti Quarterly Law Review* (2018) 32.

⁴⁸ Oil and Gas Industry Content Development Act, 2010.

⁴⁹ *Ibid.*

⁵⁰ The NIRP was launched by the Goodluck Ebele Jonathan Administration in 2014 to promote local content in the iron ore, cement, aluminium and basic steel processing. Available online at <<https://nipc.gov.ng>> accessed 21 November 2019.

mineral processing sector. The Nigerian Automotive Development Plan (NADP)⁵¹ seeks to convert Nigeria from an automotive assemblage destination to production. The Guidelines for Nigerian Content Development in Information and Communications Technology⁵² seek to protect and promote Nigeria's local content in the sphere of ICT by ensuring that locally produced ICT products and services are patronized.⁵³

The Executive Order No. 003⁵⁴ by the Federal Government mandated government ministries and agencies to give preference to locally manufactured goods and services in their procurements particularly section 2 and 3 thereof.⁵⁵ Thus, the Nigerian government has not left its local content, as far as legal action is concerned to chance, but enforcement is another thing.

The African Continental Free Trade Agreement (ACFTA),⁵⁶ though not a WTO agreement *per se*, is in its similitude, an African Union (AU) policy document which has redefined trade policies amongst AU members by engendering free movement of goods and services within AU Member States. It is no doubt, a trade liberalisation agreement, which Nigeria must exercise caution before signing, bearing in mind its competitive potentials which can impede the growth of local industries. While the agreement can foster Nigeria's economic growth and development, it must ensure that her local content is well protected so as to prevent herself from becoming a continental dumping ground for goods whether produced in other AU nations or imported into them from non-AU members. If this is not done, the influx of foreign goods will stiffen her local market and negatively affect her local goods and services resulting to avoidable economic malaise.

IV. Effects of Trade Liberalisation on Nigeria's Economic Life

⁵¹Nigerian Automotive Development Plan, 2013.

⁵² Available at <https://nitda.gov.ng> > accessed 19 November 2019.

⁵³ Guidelines 9.0 and 10.0 of Nigerian Content Development in Information and Communications Technology 2019.

⁵⁴ Editorial, "List of Executive Orders Issued by the Buhari Administration" NaijaParrot.com, 20th June 2018 available online at <http://www.naijaparrot.com/list-of-executive-order-issued-by-buhari-administration> accessed 20 November 2019.

⁵⁵ Budget Office of the Federation, "Executive Order on Budget- May 2017" available online at <<http://www.budgetoffice.gov.ng/index.php/resources/internal-resources/executive-order?task=document.viewdoc&id=567>> accessed 20 May 2019.

⁵⁶ The agreement was signed by 44 AU members in Kigali on 21st March 2018. Give details of the source of the document.

This section of the essay evaluates the effect of trade liberation championed by WTO on Nigeria. It focuses on the economy, labour, employment and industrialisation of Nigeria. According to Boeut,⁵⁷ the world community that made poverty alleviation the main goal of MDGs called for current global trade negotiations conducted by the World Trade Organisation (WTO), the Doha Development Agenda. The expectation is that trade liberalisation will have positive effect on development and poverty reduction especially among less developed countries characterized by surplus labour as factor endowments. However, it has been observed that open trade policy, backed by exchange rate reforms, which led to improvement in exports of many countries, especially the Asian Tigers, have had adverse consequences on employment and poverty in most Less Developed Countries (LDCs.)⁵⁸

Odejimi⁵⁹ has graphically captured the effect of trade liberalisation in Nigeria in the following manner:

The liberalisation policy has had a devastating effect on local production and employment and has discouraged further investment in Nigeria. Indeed, trade liberalisation has been accompanied by de-industrialisation in Nigeria. Both the Manufacturing Association of Nigeria (MAN) and the Nigerian Labour Congress (NLC) have drawn attention to a number of industries and firms that have gone under as a result of trade liberalisation. In the Guardian Newspaper of April 27, 2008, the Group Managing Director of Chanrai Group of Companies spoke on how the importation of finished textile products to Nigeria led to the closure of his textile company in Nigeria named Afprint which started operation in 1966. This led to over 3000 employees being thrown into the labour market. In the same vein, several companies like Eleganza, Doyin Groups, Toyo glass, Arewa Textile, Calcemco, NIFOR just to mention a few closed down, sending thousands of workers home. Poor countries, Nigeria inclusive, do not have the wherewithal to compete internationally whether as it concerns trade or labour conditions. The vital thing lacking in Nigeria is a conducive environment, security and infrastructural support to boost production in the private real sector.

⁵⁷Bouët, A. 2006. What can the poor expect from trade liberalisation? Opening the black box. MTID Discussion Paper No. 93. IFPRI, Washington, DC. Where can it be found? Supply the URL or any useful link or source.

⁵⁸Balogun, E.D., and Dauda, R. O. S, "Poverty and Employment Impact of Trade Liberalisation in Nigeria: Empirical Evidence and Policy Implications" available at <https://mpira.ub.uni-muenchen.de/41006/1/POVERTY_AND_EMPLOYMENT_IMPACT_OF_TRADE_LIBERALISATION_IN_NIGERIA_DraftfinalDaudaBalogun.pdf> accessed 11th May, 2019.

⁵⁹ Odejimi, D. O. (n28) 6.

Balogun and Dauda⁶⁰ identified internal and external factors constraining the competitiveness of the Nigerian economy in her quest of liberalisation. These include excessive devaluation of the Naira, inadequacy of economic infrastructure, high inflation and interest rates, foreign borrowing, political instability and lack of genuine social engineering among others. The near full throttle liberalisation of trade embarked upon by Nigeria has given rise to massive inflows of all manner of finished products from industrialized countries of the West and Asia, including fairly used products like textile, footwear, automobiles, motor cycles, refrigerators, air conditioners, televisions, radios, blenders; substandard and fake products like pharmaceuticals, cosmetics, toiletries, electrical materials, foods, wines, etc. Some of the goods apparently dumped on the Nigerian market are goods that can be produced or are being produced in Nigeria.⁶¹

A critical observation of the consistent and prevailing socio-economic situations in Nigeria lay bare the effects of the various liberalisation programmes engaged in by Nigeria. In the 70, 80s and early 90s, before graduating from school, a prospective graduate is sure of gainful employment, in fact, the problem such a person would have is to choose amongst the available employment options. Today, the reverse is the case. Youth unemployment and underemployment is rampant in Nigeria, which has led to increment in crime rate.⁶² According to National Bureau of Statistics, the unemployment rates for Nigeria between 2000 and 2011 showed that the number of unemployed persons constituted 31.1% (percent) in 2000 and it reduced to 11.9% (percent) in 2005 but again increased to 23.9% (percent) in 2011.⁶³ Nigeria has a youth population of 80 (eighty) million, representing 60% (percent) of the total population with a growth rate at 2.6% (percent) per year, and the national demography suggest that the youth population remains vibrant with an average annual entrant to the labour force of 1.8 million between 2006 and 2016. As at 2016⁶⁴, the National Bureau of Statistics reported that youth unemployment rate in Nigeria rose to 42% (Forty-Two) percent.⁶⁵

⁶⁰ Balogun, E.D., and Dauda, R. O. S, (n49) 14.

⁶¹*Ibid.*

⁶²Ajaegbu, O. O., "Rising Youth Unemployment and Violent Crime in Nigeria" 5 (2) *American Journal of Social Issues and Humanities* (2012) 315.

⁶³*Ibid.* The expected reference is the National Bureau of Statistics, which '*Ibid*' cannot satisfy; more so, author has not furnished any nexus between note 36 and the data from NBS. Author should supply the appropriate reference.

⁶⁴Alagbe, J., "Youth Unemployment, a Time Bomb" *Punch Newspaper* of 28th January 2018) 10.

⁶⁵*Ibid.*

Moreover, Nigeria's Naira in the 70s used to be more valuable than the pound sterling. In those days, foreigners from all parts of the world, come to work in Nigeria. Today, through trade liberalisation, the Naira has been grossly devalued. It is not recognized as a currency for trans-border transactions. Devaluation of the Naira was one of the unspoken conditions for IMF loans. Most local industries have died a natural death because they are unable to favourably compete with imported goods due to the open market policy of liberalisation. The cost of production is higher than that of importation. Nigeria is littered with imported goods of various varieties including those that can be locally manufactured. Odejimi puts it thus:

One of the major limitation or disadvantage of this situation is that, infant industries and small scale struggling businesses find it difficult and to say the least, impossible to compete in the world market with these products. For example, the unit cost of producing a stick of candle in Nigeria is about 150% the price of an imported candle stick from China. Now, how can the candle factories in Nigeria compete for market or even strive to export? How would the millions of skilled and unskilled labourers be employed if factories are closing down for inability to compete with foreign products? These are few of the questions begging for answers.⁶⁶

The concomitant effect of the above is a snail pace growth economy which is not capable to carter for the needs of Nigerians. Nigeria's labour sector has experienced recurrent unrest as workers keep agitating for better and improved conditions of work amidst dwindling economic growth. In fact, this unrest is felt beyond the contemplated limits of various workers groups in different sectors in Nigeria. The off shoot of this is the resort to casualization of labour, which is a term used in Nigeria to describe work arrangements that are characterized by bad work conditions like job insecurity, low wages, and lack of employment benefits that accrue to regular employees as well as the right to organize and collective bargaining.⁶⁷ "Casual work is often temporary, with uncertain wages, long hours, and no job security."⁶⁸ This practice in itself is inimical to decent work and international minimum best practice, but has become an acceptable norm due to socio-economic

⁶⁶ Odejimi, D. O. (n28) 10.

⁶⁷ Danesi, A. R., "Labour Standards and the Flexible Workforce: Casualization of Labour under the Nigerian Labour Laws" Available at <www.ajol.info/index.php/eajphr/cart/view//39344/7848>, Accessed 25th March, 2019.

⁶⁸ Fapohunda, T. M., "Employment Casualization and Degradation of Work in Nigeria" *International Journal of Business and Social Sciences*, (3)9 (2012) 258. Available online at <http://ijbssnet.com/journals/Vol_3_No_9_May_2012/31.pdf> Accessed on 28 April 2019.

factors.

The situation above points to the conclusion that, Nigeria's embrace of WTO trade liberalisation policy has not been to her benefits due to certain prevailing factors.

V. Closure of Nigeria Borders and Protection of Local Content

Recently, the Federal Government directed the closure of all land borders between Nigeria and her neighbouring countries as a result of continuous undermining of her economic policies concomitant with its adverse economic effects.⁶⁹ These borders, particularly the Seme-Badagry Border has become the hub for brazen smuggling activities despite talks between Nigeria and Benin Republic to discourage same. The ECOWAS Treaty regulates the free movement of person and goods within ECOWAS States to the extent that goods produced in one State can be moved to another where the market is available after payment of requisite duties.⁷⁰ However, goods imported from a non-ECOWAS State by an ECOWAS State, cannot be moved to another member State without payment of requisite taxes and duties.

The borders particularly between Nigeria-Benin and Nigeria-Niger has become a route for smuggling of contraband goods and even goods that are locally manufactured in Nigeria into Nigeria. This situation is capable of injuring Nigeria's local content. Nigeria's Minister of Finance, Budget and National Planning, Mrs Zainab Ahmed, said the borders were closed to curb illegal trading activities by Nigeria's neighbours. Ahmed said the closure would remain in force until the country secured the commitment of its neighbours to trade agreements and treaties signed with them.⁷¹ This action of the Federal Government is boost towards striking a balance between trade liberalisation in the face of the African Free Trade Continental Agreement and Nigeria's ECOWAS membership. Tons of rice are smuggled into Nigeria despite availability of local rice, the effect is the inhibition of the local rice market growth.

⁶⁹Royal, D. O., Why Federal Government Closed Nigeria's Borders available at < <https://www.vanguardngr.com/2019/09/why-fg-closed-nigerias-borders-cg-customs/> > accessed 22 November 2019.

⁷⁰Article 3 of the Revised ECOWAS Treaty 1993.

⁷¹Urowayino, J., "Border closure: IMF backs Nigeria" < <https://www.vanguardngr.com/2019/10/border-closure-imf-backs-nigeria/> > accessed 25 November 2019.

The above notwithstanding, closing borders with a neighbouring country sharing a common external tariff and a soon-to-be implemented common currency might not be the right signal to send about the seriousness of the West African integration agenda of which Nigeria has become a prominent advocate. It is clearly not in Nigeria's interest to pursue policies of relying on import protection to boost inefficient domestic industries and subsidizing gasoline use. Instead, the solution to the overarching enigma of its weak industrial and agricultural bases might be in the predominance of the oil sector over the rest of the economy (oil makes up 90 percent of Nigeria's exports), as well as counterproductive economic policies and rampant corruption and favouritism.⁷²

VI.W TO Trade Liberalisation and Local Content: The Synthesis

In the preceding section, the effects of trade liberalisation on Nigeria's local content have been graphically captured. It is obvious that while the idea of trade liberalisation is laudable, Nigeria's experience has been largely unrewarding, at least to its local content. This section of the article proposes a template that will ensure a synthesis between trade liberalisation and Nigeria's local content. It is trite that since the inception of the Fourth Republic,⁷³ the rate of unemployment/underemployment, increment in importation against near zero export, closure of local non-oil businesses, devaluation of the Naira, precarious labour practices (casualization), increment in financial crimes, etc. have engulfed Nigeria in an unprecedented proportion.

The issue here is, what must Nigeria do to create the much-needed balance so that she does not continue to liberalize her economy to her own detriment as it is presently the case? Firstly, there is a need to diversify Nigeria's economy from a predominantly oil driven economy to a multifaceted one. Presently, 90 percent of Nigeria's earning is from the oil sector. Her non-oil sectors particularly agriculture is comatose. Prior to the discovery and exploitation of oil in commercial quantity in Nigeria, her foreign earning had been from agricultural produce such as cocoa, coffee, palm produce, rubber, groundnuts, etc. Several years ago, the groundnut pyramids of

⁷² Golud, S., Golubski, C., Mbaye, A. A., "Consequences of Nigeria-Benin border closure" Available online at <<https://guardian.ng/opinion/consequences-of-nigeria-benin-border-closure/>> 22 November 2019.

⁷³ The fourth Republic began from 1999 till date when Nigerian returned to Democratic Rule with Olusegun Obasanjo as the President.

Kano were being used as reminders of the ancient Egyptian pyramids, cocoa house in Dugbe, Ibadan, South West Nigeria, reputed as the first skyscraper in Africa, Western Nigeria Television (now NTA), Liberty Stadium (the first stadium in Africa), are all national legacies, built with money from agriculture and not oil.

Yet, while these legacies still subsist, commercial agriculture has become moribund in Nigeria. Diversification will ensure that the foreign earning potentials of Nigeria and Nigerians are more than one, which will engender multiple earnings and increase in GDP.

Furthermore, a corollary to diversification is the need to revamp the production and manufacturing sector of Nigeria's economy. An economy like Nigeria's that is basically a consuming one is not able to maximize the benefits of economic liberalisation as it should and has become a dumping ground for imported goods encouraged by low tariffs.

Regrettably, even Nigeria's crude oil is not refined in Nigeria presently; her refineries, like many other industries, are mere relics of bygone eras. The economic implications of a liberalized non-manufacturing economy like Nigeria, *inter alia*, is the purchase of raw products at a cheaper rate by other nations to exchange with finished goods as import at a higher rate on a low tariff. It is shameful to note that as common as toothpick is still being imported by Nigeria, despite the abundance of raw materials in Nigeria. Nigeria is still a major importer of electronics, consumable goods like rice, cereals, beans, building materials, cars, etc.; while exporting mainly crude oil. The issue is where are the locally manufactured goods to favourably compete with foreign goods imported into Nigeria?

Moreover, to synthesize the WTO trade liberalisation policies and Nigeria's local content, there is the need to improve on the business infrastructure in Nigeria. The importance of electricity and good road network to the exploitation of the business potentials of any nation cannot be overemphasized. A lot of local businesses which could have favourably competed with foreign ones in Nigeria are struggling because of lack of adequate infrastructures. Electricity is the live wire of manufacturing; however, the electricity generation and supply in Nigeria is not only erratic but epileptic. This makes the cost of doing business in Nigeria for local industries extremely cumbersome and unprofitable.

Incidental to this is the lack of good roads for most produced goods to be moved to the available markets, particularly perishable goods, from rural settings to the cities where they are needed. Thus, most of these goods get spoilt before getting to the limited available markets, causing local businesses to run at a loss. This reduces the capability of local goods favourably competing with foreign ones.

Furthermore, there is a need for re-orientation for the need to consume locally manufactured goods by Nigerians. In the area of automobile, Innoson Motors,⁷⁴ an indigenous automobile company is reputed for manufacturing durable and stylish luxurious cars like their foreign counterparts. However, Nigerians, especially government functionaries, would rather buy foreign manufactured cars (even fairly used ones whether *UK or US used*) than a brand new Innoson cars.⁷⁵ The same attitudes go for other products especially electronics and clothing. This unjustifiable preference for foreign goods over locally produced goods, which may even be of superior quality, is a negative omen on Nigeria's local content protection and promotion.

Made in Nigeria goods are looked at with suspicion, especially by the elite class. The outcome of this is the uncontrollable influx of Nigeria's market by foreign goods at the expense of local ones. Where local manufacturers are unable to sell their goods, local business will suffer, and the economy will be negatively affected. To overcome this unjustified preference for foreign goods over local goods, most local manufacturers have resorted to labelling locally produced goods as "made in China, Taiwan, Belgium, etc., even when they are actually made in Aba, Onitsha, or Lagos.

Furthermore, it is a truism that unemployment and underemployment keep increasing in geometric progression in Nigeria.⁷⁶ A Nation whose teeming youths and young graduates roam the street helplessly and hopelessly is heading for economic crisis and dependence on foreign assistance, which has been the lot of Nigeria since the commencement of the Fourth Republic.⁷⁷ Nigeria remains a major recipient of

⁷⁴Innoson Motors is a Nigerian Automobile company based in Nnewi, Anambra State, Nigeria

⁷⁵ The preference for foreign goods is not to be viewed as an act of lack of patriotism. The guarantee of quality of locally produced goods is uncommon when compared to foreign goods, this is a precipitant for the preference. The standard of goods produced locally especially electronics, clothing, pharmaceuticals, and others, cannot be compared to foreign goods. Thus, to discourage consumption of foreign goods, the quality of the local goods must be improved upon, the Standard Organisation of Nigeria and other quality assurance agencies must regulate quality of locally produced goods.

⁷⁶Kamaldeen, I. M., "Challenges of Sustainable Development in Nigeria: Legal Perspectives" in Egbewole, W. O., Etudaiye, M. A., and Olatunji, O. A., (eds.) *Law and Sustainable Development in Africa*, (Ilorin, Al-Fattah Publications Ltd., 2012) 98.

⁷⁷The fourth Republic is the period from the return to democratic rule in Nigeria which is from 1999 with the election of President Olusegun Obasanjo till date.

Foreign Aids (FA) from European Nations (EN) and international organisations such as IMF, WB, UNICEF, USAID, UNESCO, US, UK, and China. It becomes very difficult, if not impossible, for Nigeria to courageously adopt economic policies that would protect her local market from the dominance of foreign goods. Recently, the MTN Nigeria (a South African company) was heavily fined by the Nigerian government for illegal repatriation of funds, the fine has become a matter of circuitous negotiations between Nigeria and South Africa with Nigeria refraining from using the big stick, being aware of the loss of employment Nigerians stand to risk in the event of the exit of the telecommunication company from Nigeria, like many other companies.⁷⁸

Unemployment will continue to weaken the resolve of successive Nigerian government to adopt a Nigerian beneficial economic policy as foreign interest would continue to pressure her to opening of her market at her own detriment. Recently, the Minister of Labour, Employment and Productivity, Chris Ngige was quoted expressing serious concerns over the increasing unemployment rate in Nigeria. He said:

The high unemployment rate of 23.1 percent and underemployment of 16.6 percent by the National Bureau of Statistic (NBS) of 2019 report was worrisome amidst growing level of insecurity challenge in the North East and the increasing menace of the Fulani herdsmen.⁷⁹

Moreover, another issue that must be frontally confronted and conquered, for there to be a balance between trade liberalisation and promotion of Nigeria's local content, is the hydra headed monster of corruption.⁸⁰ Corruption has become a major bane of all developmental efforts towards commercialization and industrialisation of Nigeria. Year in, year out, contracts are awarded, and monies paid, yet, there are no completed projects, the completed ones are mainly substandard.⁸¹ In fact, certain items have become perpetually reoccurring items on the budgets of successive

⁷⁸ Ogunfuwa, I., "MTN Pays N55bn Balance of Sim Infraction Fine" Punch Online 1 June 2019. Available online at <https://www.google.com/amp/s/punchng.com.mtn-pays-n55bn-balance-of-sim-infraction-fine> accessed 19 November 2019. See also < <https://www.ncc.gov.ng> > accessed 19 November 2019.

⁷⁹ Akinwale, A., "FG: Nigeria's Unemployment Rate Reaches 33.5% by 2020" Available Online at <https://www.thisdaylive.com/index.php/2019/05/03/fg-nigerias-unemployment-rate-reaches-33-5-by-2020/> accessed 13th May 2019.

⁸⁰ Oyeboode, A. "Law and Nation-Building in Nigeria" Lagos, Centre for Political and Administrative Research, (2005) 175-185.

⁸¹ Otoghile, A., "Economic Policy and Development: 1985-Date" in Igbinovia, P. E., Okonofua, B. A., and Osunde, O. O., (eds) *Law and Social Policy Legislation and Administration in Nigeria*, Lagos, Ababa Press Ltd., (2004) 115.

governments. For example, the Lagos-Ibadan and Benin-Ore expressways have had federal allocations severally, but the roads remain death traps, despite their strategic posture to conveyance of goods from and to various parts of Nigeria. Due to institutional corruption, regulatory bodies have become condonation and connivance bodies, allowing substandard goods and services to thrive in Nigeria.⁸² There is no sector in Nigeria that is not been confronted by one shade of corruption or the other.⁸³ The negative impact corruption has on trade liberalisation vis-a-vis Nigeria's local content is that it is undermining the growth of domestic industries and products to favourably compete with foreign goods/services.

Moreover, to strike the right balance between adherence to WTO trade liberalisation policies and Nigeria's local content, there is the urgent need to overhaul the existing labour and employment legal and regulatory regimes. Liberalisation was hoped to engender employment amidst deregulation of labour. However, liberalisation in the labour sector, as discussed above, has led to the infamous, precarious and inhumane practice of casualization of labour in Nigeria, particularly in the inadequately regulated informal sector.⁸⁴ Several reasons have been advanced as the precipitants of casualization in Nigeria.⁸⁵

Aside the employer shylock desire for profit maximization, the obsolete status of Nigeria's labour legal regime has been a major propellant.⁸⁶ Under the current legal regime, the status and rights of casual workers are shady and undefined.⁸⁷ These has made employers, particularly foreign domesticated employers in the oil and gas, construction and manufacturing industries to resort to precarious casualization of

⁸²Akintola, A., "Corruption and Rule of Law, Whither Nigeria?" in Onigbinde, A. and Ajayi, S. (Eds) *Contemporary Issues in the Nigerian Legal Landscape: A Compendium in Honour of Prince Lateef Fagbemi SAN*, (Ibadan, Crown Goldmine Communications Ltd., 2010) 190.

⁸³Aligba, A., "An Assessment of the Performance of the Courts in the Fight Against Corruption in Nigeria" 2 *Ebonyi State University Journal of International Law and Juridical Review*, (2013) 140.

⁸⁴Bamidele, R., *Casualization and Labour Utilization in Nigeria*. Available online at <http://www.ilo.org/public/english/iira/documents/congress/regional/lagos2011/1stparallel/session1b/casualization.pdf> accessed 13 March 2019.

⁸⁵Anyim, F. C., Ufodiama, N. M., and Ideh, D. A., "From Flexible Labour Market to Precarious Labour: Unhealthy Fate of Nigerian Workers" available online at https://www.academia.edu/9234066/FROM_FLEXIBLE_LABOUR_MARKET_TO_PRECARIOUS_LABOUR_UNHEALTHY_FATE_OF_NIGERIAN_WORKERS accessed 15 March 2019.

⁸⁶Kalejaiye, P. O., "The Rise of Casual Work in Nigeria: Who Loses, Who Benefits?" Vol. 8, No. 1, *An International Multidisciplinary Journal, Ethiopia*, 2014, P. 157. Available online at <https://www.google.com.ng/search?q=Theories+on+Casualization+of+Labour&aq=Theories+on+Casualization+of+Labour&aqs=chrome..69i57j0j7&sourceid=chrome&ie=UTF-8> accessed 17 March, 2019.

⁸⁷Ajayi, M. O., and Eyongndi, D. T., "Legal Status of Casual Employees under Nigerian Labour Law: The Imperative for Legal Reforms" Vol. 19, No. 1, *University of Benin Law Journal*, 2019, P. 165.

employment with its attendant negative consequences on domestic labour.⁸⁸ When the plight of casual workers in Nigeria is compared with their contemporaries in Ghana, Ghana through legislative pro-activeness has amended its laws wherein the meaning, duration, rights, privileges, of casual workers and the obligations of their employers are clearly spelt out and not left to judicial conjecture and activism.⁸⁹

The overhauling of the existing obsolete labour legal regime would provide legal enthusiasm to trade unions to agitate against casualization of labour which has cheapened labour in Nigeria within foreign own businesses operating in Nigeria as well as embolden the Court to make appropriate declaratory and protective pronouncements.⁹⁰ The effect of this overhaul as a catalyst for protecting and promoting Nigeria's local content is that Nigerian workers would enjoy the benefits of legal protections whether they are permanent or casual workers, they will be remunerated at least, better than what is presently obtained. This will lead to worker's prosperity convoluting to general societal wellbeing as the incessant agitations by trade unions against employers of casual workers with its attendant acrimonious and economic deflating outcomes, if not eradicated, would be minimized to the barest minimum.⁹¹

Furthermore, since trade entails the interaction of various interests, dispute is an inevitable occurrence. However, the occurrence of dispute, particularly within commercial sphere should not be the end of such relationship. It is common knowledge that prudent commercial disputants are reluctant to submit their disputes to litigation especially to a forum different from theirs, due to several drawbacks of litigation as a dispute settlement mechanism.⁹² Presently in Nigeria, an alternative to litigation, such as arbitration, faces several challenges in Nigeria which has made

⁸⁸Adewusi, A. O., "Remuneration of Casual Workers in Selected Foreign-Owned Manufacturing Industries in Southwest, Nigeria" Vol. 7, No. 22, *European Journal of Business and Management*, 2015, P. 186. Available online at

<<https://iiste.org/Journals/index.php/EJBM/article/viewFile/25048/25981>> accessed 17 March 2019.

⁸⁹ Amechi, P. E. and Eyongndi, D. T., "Casualization of Labour in Nigeria and Ghana: What Lessons are there for Nigeria?" 2017-2018, *Nigerian Current Law Review*, 2018, Pp. 136-138.

⁹⁰ Animashaun, A. O. "Casualization and Casual Employment in Nigeria: Beyond Contract" Vol. 1, No. 4, *Labour Law Review*, 2007, Pp. 25-28.

⁹¹ Aladekomo, F. O. "Casual Labour in a Nigeria Urban Centre" Vol. 9, *Journal of Social Science*, 2004, Pp. 211-213.

⁹² David T. Eyongndi and Akin O. Oluwadayisi, "An Appraisal of Section 34 of Arbitration and Conciliation Act and the Role of the Court in Arbitral Proceedings in Nigeria" *5 Rivers State University Journal of Jurisprudence and International Law* (2018) 102-118.

settlement of commercial disputes more cumbersome and even suspicious.⁹³ Most Nigerian lawyers have a litigious attitude and see arbitration as a foe, some sort of “hole making device in their pockets”, robbing them of appearance fee and therefore are hostile towards it. Some judges are ill-equipped with regards to the practice and procedure of arbitration.⁹⁴ The existing legal framework encapsulated in the Arbitration and Conciliation Act (ACA)⁹⁵ is obsolete when compared to some other jurisdictions⁹⁶ and does not instil confidence in foreigners to select same as the *lex arbitri* of an arbitral proceeding nor can they choose Nigeria as the seat of an arbitration.⁹⁷

The effect of this is that disputes that arise during international commercial transactions in Nigeria or with a Nigerian investor are taken to other jurisdictions with more predictable settlement outcome and less cumbersome procedure such as US, UK, Singapore, and Canada for settlement. This robs Nigeria of income which could have been earned through the settlement of the dispute in Nigeria.⁹⁸ There is a need to make the Nigerian dispute settlement mechanism *in tandem* with the WTO structure.⁹⁹

Moreover, there is the need for the government to explore and implement policies that would help strengthen the Naira as a legal tender. The devaluation of the Naira has led to economic downturn. Further devaluation attempts by bourgeoisie foreign organisation particularly the IMF and WB should be resisted. If this is done, it will positively impact on the exchange rate and earn Nigeria and Nigerians more income. Nigeria is regarded as the giant of Africa, in her trade relations with other African countries, Naira as against any other western currency should be the medium of exchange. The inflation rate should be controlled, as this will aid the strengthening of the Naira as well.

⁹³ Eyongndi, D. T., “An Appraisal of Perennial Hurdles in the Enforcement of Arbitral Awards in Nigeria and India” 10 *Ram Manohar Lohiya National Law University Journal*, (2018) 107-112.

⁹⁴ Ajogwu, F., *Commercial Arbitration in Nigeria: Law and Practice*, 2nd ed., (Lagos, Commercial Law Development Services, 2007) 59.

⁹⁵ Arbitration and Conciliation Act 1988, Cap. A18 LFN 2004.

⁹⁶ The UNCITRAL Model Law from which the ACA was drawn has been reviewed four times since 1988 with the latest being the 2010 UNCITRAL Rules but the ACA has remained despite changes necessitating its review. See also the English Arbitration Act 1996.

⁹⁷ Eyongndi, D. T., “The Arbitration and Conciliation Act, 1988 and International Commercial Arbitration in Jet Age: The Imperative for Urgent Review” 1 *LASU Law Journal* (2018) 119.

⁹⁸ Oke, O., “Alternative Dispute Resolution in Nigerian Legal System: Past, Present and Future” in Olanrewaju, D., (Ed.) *Law and Its Leeway: Essays in Honour of Emeritus Professor Isaac Oluwale Agbede*, (Lagos, Gem Communications Resources, 2013) 213-222.

⁹⁹ Otor, E. I., “An Overview of the World Trade Organisation (WTO) Dispute Settlement System” 8(2) *The Journal of Jurisprudence and Contemporary Issues* (2016)136-202.

Over the years, under the guise of reciprocity which is one of the tenets of the WTO trade liberalisation policy, industrialized nations such as China, USA, UK, and Japan have converted Nigeria to a dumping ground for all kinds of goods. This is possible because Nigeria's compliance with the WTO liberalisation policy has been unregulated. To turn this negative tide around, the government should adopt a regulated liberalisation policy. Certain goods should not be allowed to be imported into Nigeria, particularly those that can be and are being locally manufactured. To be able to achieve this, the government must aggressively support local industries through various incentives to be able to produce the quality and quantity that is needed of these categories of goods. The enabling environment must be created alongside funding through minimal interest loans and grants.

Also, the government should ensure that the various laws and policies geared towards promotion of Nigeria's local content are rigorously enforced dispassionately. The various regional and Continental trade agreements to which Nigeria is a signatory should be observed with the interest of Nigeria as paramount; any act or omission by any member State that is capable of undermining Nigeria's economic wellbeing should not be tolerated. If all the above is done, it is hoped that a balance will be struck between Nigeria's adherence to WTO trade liberalisation policies and protection as well as promotion of Nigeria's local content.

VII. Conclusion

Extrapolating from the analysis above, it is obvious that the WTO trade liberalisation policy is a well-intentioned initiative aimed at encouraging international trade and investment amongst nations of the world. It is geared towards removing barriers from international trade and investment amongst nations of the world. Its benefits cannot be overemphasized as it seeks to engender a near borderless trade environment on an international scale ensuring that there is competition between local and international goods and services affording the consumers the opportunity to select only the best.

Thus, this will culminate into the creation of an egalitarian capitalist world of course with its attendant consequences. Despite Nigeria's quest for inducing FDI by creating an enabling trade and investment environment through trade liberalisation as exemplified by her successive liberalized trade policies, the benefits can only be

harnessed if and only if, certain indispensable factors such as increment in the quantity and improvement in the quality of locally manufactured goods, creation of gainful employment opportunities, encouragement and growth of SMEs, strengthening of the Naira, diversification of the economy from mainly oil production to agriculture, manufacturing, entertainment, tourism, improvement in basic manufacturing and trade infrastructure such as electricity supply, good road network, creation and expansion of market for locally produced goods and services, strengthening of legal and regulatory institution for optimal performance, provision and improvement in commercial dispute settlement mechanisms and enforcement of settlement outcomes, continuous implementation of the WTO championed trade liberalisation policies, would remain a bane to Nigeria's local content.

Given Nigeria's human and natural resources, she stands to benefit a great deal from liberal trade policies however, her failure to put into place the necessary infrastructural catalysts, have led to her having an unpalatable experience as the rate of poverty, unemployment and underemployment, over dependence on imported goods, closure of local industries, migration of foreign business concern have increased astronomically. Nigeria is regarded as the giant of Africa and her economy as vacillated within the perimeters of fasted growing economy and growing economy in Africa. Her population keeps increasing necessitating an urgent need for all stakeholders to have all hands-on deck to ensure that local content is not sacrificed sheepishly and hopelessly on the altar of international solidarity.

We contend that now, more than ever, there is a dire need to strike a balance between the WTO trade liberalisation policies and Nigeria's local content and the preceding sections in this paper, have graphically provided a timely and pragmatic roadmap towards achieving this compulsory synthesis.