

# INFORMATION/DATA BRIEF

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## **AfCFTA, Dumping and Enforcement of Rules of Origin: Issues for Legislative Intervention**

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### **Summary**

The recent launching of AfCFTA holds promise for the economic development of Nigeria and other AU member states. Despite the projected gains from the intra-Africa free trade, dumping is a key downside of AfCFTA, especially for Nigeria being the biggest economy in Africa. *Dumping has an adverse effect on Nigeria's domestic economy by crippling domestic manufacturing capacity and ultimately, worsening unemployment and balance of payment position.* To corroborate this worrisome development, The recent Report of the National Bureau of Statistics (NBS, February 2021 Report) shows a rising deficit in manufactured goods trade between Q4 2019 and Q4 2020. To reverse this trend, the enforcement of the rules of origin is considered *the game-changer for Nigeria to maximize the gains from AfCFTA.* Otherwise, the failure to enforce the rules of origin will inadvertently consign Nigeria as a dumping ground with adverse socio-economic consequences following. Though the Federal Government through the National Action Committee on AfCFTA has given the assurance that efforts are ongoing to establish a *Trade Remedies Authority to enforce the rules of origin*, this Analysis Report is warranted as it draws the attention of the National Assembly to this development and ultimately to galvanize the Federal Ministry of Industry, Trade, and Investment to expedite action in enforcing the rules of origin as enshrined in the AfCFTA Protocol on Trade in Goods. Arising from the analysis, the following recommendations have been advanced for consideration by the National Assembly.

- i. The National Assembly may consider *summoning the National Action Committee for AfCFTA* in order to elicit update on the status of the establishment of a *Trade Remedies Authority to enforce the rules of origin.*
- ii. The National Assembly may also consider intensifying its legislative oversight on the Federal Ministry of Industry, Trade, and Investment in the light of Nigeria's benefit from AfCFTA.
- iii. The National Assembly may consider a quarterly update from the National Action Committee on AfCFTA. This is warranted in order to safeguard the welfare of Nigerians as provided in Section 14 (4b) of the Constitution of the Federal Republic of Nigeria, 1999.

## 1. Issue

January 1, 2021, marked a watershed in Africa as the African Continental Free Trade Agreement (AfCFTA) kicked off. The fifty-four (54) Africa Union member States<sup>1</sup> Free Trade Area (FTA) is expected to boost intra-African trade from its current 15% to about 33% once full tariff liberalization is implemented, attracting additional intra-African investments and create market opportunities to foster Africa's industrialization through regional value chains. However, given its scope, size, and potential impacts, the nascent and wide-reaching trade area has implications on the Nigerian economy. Despite the projected gains from intra-Africa trade, dumping is a key downside of AfCFTA. The concerns that Nigeria might become a dumping ground for manufactured goods especially at the kick-off of the AfCFTA has intensified. Dumping has an adverse effect on Nigeria's domestic economy by crippling domestic manufacturing capacity and ultimately worsening unemployment and balance of payment positions. To corroborate this development, the recent Report of the National Bureau of Statistics (NBS, February 2021 Report) shows a rising deficit in manufactured goods trade between Q42019 and Q42020. Analysis of the Manufactured Goods Trade of the NBS Report reveals a steady increase in the value of imported manufactured goods compared to exports in consecutive quarters. To reverse this trend,

the ensuing analysis report points to the enforcement of the rules of origin as the game-changer for Nigeria to maximize the gains from AfCFTA. Though the federal government through the National Action Committee on AfCFTA has given the assurance that efforts are ongoing to establish a Trade Remedies Authority to enforce the rules of origin, this analysis report is warranted as it draws the attention of the National Assembly to this development and ultimately to galvanize the Federal Ministry of Industry, Trade, and Investment to expedite action in enforcing the rules of origin as enshrined in the AfCFTA Protocol on Trade in Goods.

## 2. Background

The AfCFTA is a landmark achievement in the continent's history of regional integration and it is expected to generate significant welfare gains. To maximize these gains, the enforcement of the rules of origin will determine whether preferential trade liberalization under the AfCFTA can be a game changer for Africa's industrialization. Rules of origin are a "passport" enabling goods to circulate duty-free within a free trade area (FTA) as long as these goods qualify as originating within the FTA. Currently, intra-African trade is a mere 15%, compared to around 47% in America, 61% in Asia and 67% in Europe, according to UNCTAD data for 2015 to 2017, but the AfCFTA could radically change the status quo.

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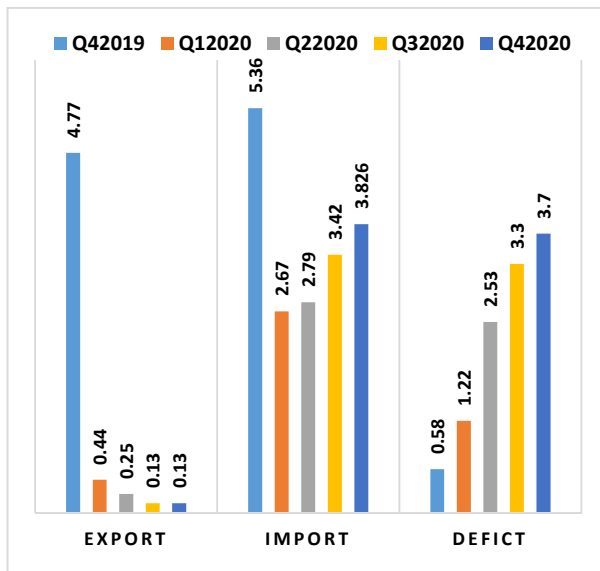
<sup>1</sup> 54 of the 55 African Union states had signed the Agreement, with **Eritrea** the only country not signing the Agreement. Of these member states, 27 have deposited their instrument of ratification

Against this backdrop, stakeholders in the manufacturing sector are apprehensive that without strict enforcement of the rules of origin as enshrined in Article 13 of the Protocol on Trade in Goods, Nigeria may end up as a dumping ground for foreign manufactured goods. The Economic Development in Africa Report 2019 notes that rules of origin could be a game changer for the continent as long as they are simple, transparent, business friendly and predictable.

However, many of these gains could be undermined if rules of origin are not appropriately designed and enforced to support preferential trade liberalization.

Preferential trade liberalization is the *raison d'être* of a free trade area (FTA), whereby member countries scrap import tariffs and quotas among themselves on most traded goods, in order to confer a competitive advantage to firms within the FTA.

**Figure 1: Trend in Manufactured Goods Trade in Nigeria between Q42019 and Q42020 in Trillion Naira**



Source: National Bureau of Statistics, 2021

Figure 1 above shows a steady uptick in deficit manufactured goods trade in Nigeria between Q4 2019 and Q4 2020. Manufactured goods deficit moved from ₦58 billion in Q4 2019 to ₦1.22 trillion in Q1 2020. It maintained a steady increase to ₦2.53 trillion, 3.3 trillion and 3.7 trillion in Q2 2020, Q3 2020, and Q4 2020 respectively. The deficit manufactured goods trade is attributable to decreases in export and increases in import manufactured goods. This indicates that imports of manufactured goods from non-AfCFTA countries could worsen Nigeria's trade balance if rules of origin is not enforced.

### 3. Rationale

Suffice that Article 13 of the Protocol on Trade in Goods establishing AfCFTA states that "Goods shall be eligible for preferential treatment under this Protocol, if they are originating in any of the State Parties in accordance with the criteria and conditions set out in Annex 2 on Rules of Origin, and in accordance with the Appendix to be developed on General and Product Specific Rules". By supporting intra-African trade, the enforcement of the rules of origin would also, advance Africa's industrialization agenda through regional value-chain development, reduce Africa's dependence on commodities, and generate the jobs needed to harness Africa's demographic dividend. But whether in practice firms within the AfCFTA utilize trade preferences and the extent to which they would do so depends on the way rules of origin are designed and implemented. The failure to enforce the rules of origin will inadvertently consign Nigeria as a dumping ground for Nigeria, being the biggest economy.

#### **4. Policy Recommendation and Conclusion:**

For Nigeria to maximize the gains of AfCFTA, the following policy recommendation are advanced for the consideration by the National Assembly.

- iv. The National Assembly may consider summoning the National Action Committee for AfCFTA in order to elicit update on the status of the establishment of a Trade Remedies Authority to enforce the rules of origin.
- v. The National Assembly may also consider intensifying its legislative oversight on the Federal Ministry of Industry, Trade, and Investment in the light of Nigeria's benefit from AfCFTA.
- vi. The National Assembly may consider a quarterly update from this the National Action Committee on for AfCFTA. This is warranted in order to safeguard the welfare of Nigerians as provided in Section 14 (4b) of the Constitution of the Federal Republic of Nigeria, 1999.

Overall, the epochal launching of AfCFTA holds promise for the economic development of Nigeria and other AU member states. However, our analysis shows that dumping is a key downside of AfCFTA. This adverse impact on the Nigerian economy has the potential to cripple domestic manufacturing capacity and ultimately worsen Nigeria's unemployment and balance of payment

positions. To reverse this trend, the enforcement of the rules of origin is considered the game-changer for Nigeria to maximize the gains from AfCFTA. To this end, the National Assembly may consider summoning the National Action Committee for AfCFTA in order to elicit update on the status of the establishment of a Trade Remedies Authority to enforce the rules of origin.

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