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SUBJECT: - AfCFTA Framework Policy Brief Series

PROF. MUHAMMED TAWFIQ LADAN, PhD

DIRECTOR, DIVISION OF AfCFTA LAW AND POLICY (DALP),
OFFICE OF THE DIRECTOR GENERAL
NATIONAL INSTITUTE FOR LEGISLATIVE AND DEMOCRATIC STUDIES,
NASS, ABUJA

No. 2, ABUBAKAR O. SULAIMAN AVENUE, PIWOYI DISTRICT, OFF UMARU
MUSA YAR'ADUA EXPRESS WAY, AIRPORT ROAD, ABUJA

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Topic:

Evidence-Based Legal, Regulatory, and Policy Assessment of Nigeria's AfCFTA Implementation

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By

Prof. Muhammed Tawfiq Ladan PhD

1. Introduction

The African Continental Free Trade Area (AfCFTA) Agreement represents Africa's most ambitious integration initiative, designed to create a single market for goods, services, and digital commerce across 54 nations [TRALAC]. Nigeria, as the continent's largest economy, signed the Framework Agreement on July 7, 2019, and formally deposited its instrument of ratification on December 5, 2020.

However, Nigeria operates a strict dualist constitutional framework. Under Section 12(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), no international treaty possesses the force of law locally until it is enacted into domestic law by an Act of the National Assembly (NASS) [NASS].

To navigate this constitutional requirement without causing legal fragmentation, the executive and legislative branches must manage a complex, dual-phase continental treaty architecture. Nigeria has fully ratified the core **Phase 1 Protocols (Trade in Goods, Trade in Services, and Rules and Procedures on the Settlement of Disputes)** alongside the main framework agreement [TRALAC]. Crucially, the country advanced its digital trade positioning by formally ratifying the **Protocol on Digital Trade (DTP)** on November 6, 2025.

In contrast, the remaining four instruments—the **Protocols on Investment, Intellectual Property Rights (IPR), and Competition Policy** (signed in February 2023) and the **Protocol on Women and Youth in Trade** (signed in February 2024)—remain unratified by the Executive. Under Section 12 of the Constitution, NASS is legally barred from domesticating these four signed protocols until the Executive formally executes their instruments of ratification [NASS].

To bridge this gap between international commitment and domestic enforcement, the **National Institute for Legislative and Democratic Studies (NILDS) Division on AfCFTA Law and Policy Programme** serves as the primary institutional driver [NILDS]. Operating under advanced legal methodologies, the division provides technical drafting support, policy research, and capacity building to ensure an accurate, constitutionally sound national implementation process [NILDS].

2. Recent and Ongoing Reforms (2023–2026)

Between 2023 and 2026, Nigeria enacted substantial domestic legal and regulatory updates to align its trade architecture with its ratified continental commitments:

- **Customs Modernization and Trade Facilitation:** The enactment of the **Nigeria Customs Service (NCS) Act 2023** fundamentally overhauled colonial-era customs statutes [NCS]. The Act provides direct statutory backing for electronic single windows, advanced rulings, automated risk management, and paperless cargo clearance, directly fulfilling the trade facilitation obligations set out under the AfCFTA Phase 1 rules [NCS, TRALAC].
- **Tariff Concession Realignment:** The Federal Ministry of Finance, collaborating with the National Action Committee (NAC) on AfCFTA, operationalized Nigeria's **Provisional Schedule of Tariff Concessions** [NAC]. This schedule establishes a transparent roadmap to progressively eliminate tariffs on 90% of non-sensitive tariff lines for validated intra-African imports.
- **Services Liberalization and Commitments:** Nigeria's **Schedule of Specific Commitments** was successfully gazetted and harmonized through the ECOWAS Commission [Guardian]. This operational setup grants preferential market access across five priority service sectors: business services, communication, finance, transport, and tourism [Guardian].
- **Digital Trade Regulatory Compliance:** Following the Executive's landmark ratification of the **Digital Trade Protocol (DTP)** on November 6, 2025, the Nigeria Data Protection Commission (NDPC) and the National Information Technology Development Agency (NITDA) began a comprehensive review. This ongoing reform harmonizes cross-border data transfer rules, electronic

signatures, cryptographic standards, and digital consumer protection laws with continental standards.

3. Key Elements of the Domestication Bill Under NASS Consideration

The AfCFTA Domestication Bill currently undergoing legislative review within NASS is strictly tailored to encompass only those instruments that the Federal Republic of Nigeria has legally ratified. The primary statutory components of this draft legislation include:

- **Statutory Incorporation of the Phase 1 Framework:** The bill gives the core AfCFTA Framework Agreement, the Protocol on Trade in Goods, the Protocol on Trade in Services, and the Protocol on Rules and Procedures on the Settlement of Disputes the comprehensive force of domestic law in Nigeria [NASS, TRALAC].
- **Codification of the Digital Trade Protocol (DTP):** The bill integrates the rules of the newly ratified DTP directly into its legal schedules. This provides an immediate statutory basis for e-commerce operators, cross-border digital payment networks, and paperless trade documentation.
- **Judicial and Arbitral Alignment:** The draft bill explicitly establishes domestic legal recognition for the judgements, panels, and appellate rulings of the continental AfCFTA Dispute Settlement Body [TRALAC]. This mechanism prevents jurisdictional conflicts, ensuring that Nigerian domestic courts recognize and support continental trade dispute solutions.
- **Inter-Agency Institutional Mandate:** The bill provides explicit statutory powers, funding mechanisms, and reporting lines to the **National Action Committee (NAC) on AfCFTA** [StateHouse]. This mandate legalizes its role as the supreme administrative body coordinating trade compliance across federal ministries, agencies, sub-national states, and private-sector bodies [StateHouse].

4. The Role of the NILDS AfCFTA Division in Capacity Enhancement

The **NILDS Division on AfCFTA Law and Policy Programme** functions as the legislative clearinghouse and expert advisory body for NASS [NILDS]. It systematically builds capacity and technical expertise among lawmakers and parliamentary clerks through targeted programs:

- **Advanced Legislative Drafting Assistance:** Legal experts within the NILDS AfCFTA Division are directly responsible for compiling the schedules, technical definitions, explanatory memoranda, and transitional savings clauses needed to integrate the Phase 1 Protocols and the DTP into the active domestication bill.
- **Technical Training for Parliamentary Clerks:** NILDS administers specialized training tracks for committee clerks across the Treaties, Customs, Justice, Finance, and Commerce committees [NILDS]. This curriculum enhances skills in assessing trade data, analyzing tariff nomenclatures, and identifying statutory overlaps or conflicts.
- **Lawmaker Sensitization Workshops:** The division conducts executive-level briefings for Senators and Members of the House of Representatives [NILDS]. These sessions break down the economic impact of continental trade, clarify the strict limits of Section 12 of the Constitution, and detail effective parliamentary oversight of international trade policies [NILDS].
- **Evidence-Based Policy Research:** The division supplies data-driven research to legislative leadership, identifying domestic laws that conflict with continental trade rules and offering actionable policy solutions [NILDS].

5. Prospects

- **Access to Integrated Continental Markets:** Full domestication grants Nigerian manufacturers, agricultural exporters, and professional service providers secure, preferential access to a tariff-free market of over 1.3 billion people [TRALAC].
- **SME and E-Commerce Integration:** Enacting the DTP creates a uniform, predictable legal environment that reduces transactional barriers for small-scale cross-border traders, digital startups, and financial technology platforms.
- **Drafting and Institutional Efficiency:** The active involvement of the NILDS AfCFTA Division minimizes technical and structural errors in the bill, accelerating its passage through both chambers of the National Assembly [NILDS, NASS].

- **Foreign Direct Investment (FDI) Attraction:** Codifying these advanced trade rules provides international investors with strong legal certainty, positioning Nigeria as the premier manufacturing and logistics hub for the West African sub-region.

6. Conclusion and Recommendations

Nigeria has built a solid statutory foundation by ratifying its core Phase 1 trade protocols and the Digital Trade Protocol. However, its continental trade architecture remains incomplete. Leaving the four signed protocols on Investment, IPR, Competition Policy, and Women and Youth in Trade unratified fragments Nigeria's trade policy and delays the creation of a unified domestic legal regime.

To maximize the benefits of continental integration, the following actions are recommended:

1. **Immediate Passage of the Pending Bill:** NASS should swiftly pass the current AfCFTA Domestication Bill, securing the domestic legal status of the baseline agreement, the Phase 1 Protocols, and the newly ratified DTP [NASS].
2. **Institutionalize the NILDS Onboarding Track:** Formalize the NILDS AfCFTA Law and Policy Programme as a mandatory technical onboarding requirement for all legislative staff and clerks assigned to trade, customs, and foreign policy committees [NILDS].
3. **Accelerate Executive Ratification:** The Executive must swiftly transition from mere signature to full ratification for the Protocols on Investment, IPR, Competition Policy, and Women and Youth in Trade, depositing the instruments with the AfCFTA Secretariat in Accra.
4. **Incorporate a Statutory Transition Clause:** NASS should include a distinct savings and transition clause within the current bill [NASS]. This mechanism will allow the legislature to seamlessly integrate the remaining four protocols via a consolidated amendment bill as soon as the Executive completes their ratification [NASS].

Endnotes and References

1. See Section 12(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended); see also Ladan, M.T. (2021). *The Legal and Constitutional Challenges of Domesticating the AfCFTA Agreement in Nigeria*, Nigerian Law Journal, Vol. 24(2), pp. 45–68.
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8. National Action Committee (NAC) on AfCFTA, *Operationalizing Nigeria's Tariff Concession Lines under Phase 1 AfCFTA Framework*, Strategic Briefing Paper, 2025.
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11. African Continental Free Trade Area (AfCFTA) Secretariat, *Compiled Legal Texts on Phase 1 Protocols: Goods, Services, and Dispute Settlement*, Accra, Ghana.

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13. NILDS Policy Review Journal (2026), *Capacity Gaps in Domestication of Regional Trade Protocols in Nigeria*, Vol. 7(2), pp. 55–74.
14. NILDS Department of Research and Training, *Report on the Technical Masterclass for Clerks of Committees on Treaties, Customs, and Commerce*, June 2025.
15. Federal Ministry of Industry, Trade and Investment (FMITI), *Executive Briefing on the Ratification of the AfCFTA Digital Trade Protocol*, Abuja, November 2025.
16. NILDS Policy Briefing Note, *Optimizing Executive-Legislative Synergy for Accelerated Passage of the AfCFTA Bill*, March 2026.

Annex A: Parliamentary Legal Brief

From: **The Coordinating Director, NILDS Division of AfCFTA Law and Policy Programme, Office of the Director General, NILDS, NASS Abuja**
To: His Excellency the President of the Senate, National Assembly Abuja AND the Rt. Hon. Speaker, House of Representatives, NASS, Abuja

Subject: **Statutory Roadmap for the Domestication of the Ratified AfCFTA Instruments and the Status of Pending Protocols**

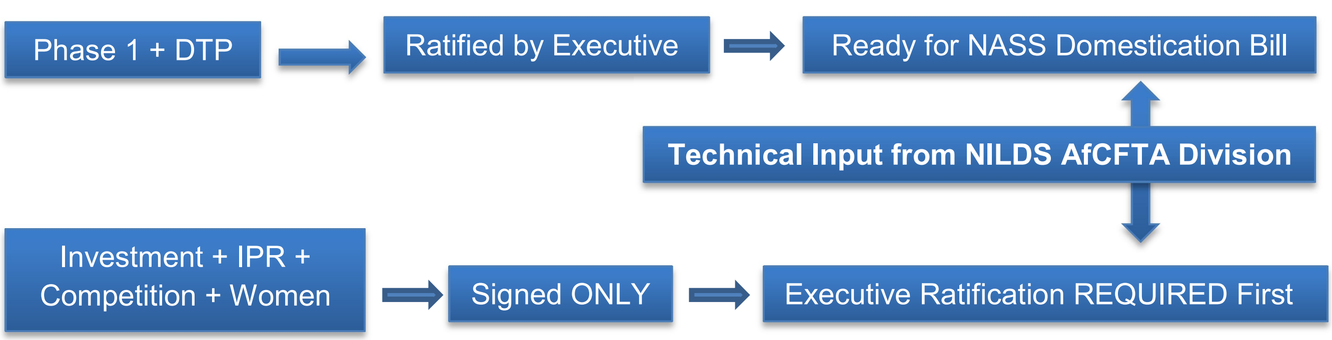
1. Purpose

This brief provides an analysis of Nigeria's constitutional obligations regarding the African Continental Free Trade Area (AfCFTA) Agreement [TRALAC]. It outlines the specific items NASS can legally domesticate right now, and defines the executive and capacity actions required before a fully consolidated trade bill can be enacted [NASS].

2. Constitutional Baseline: Section 12 of the 1999 Constitution

Nigeria is a dualist state. International agreements signed by the Executive do not automatically become part of domestic law. Under Section 12(1) of the Constitution, an international treaty can only be enforced by Nigerian courts after it has been enacted into law by NASS [NASS].

Crucially, **NASS can only domesticate treaties that the Federal Republic of Nigeria has formally ratified.** A signature indicates intent, but ratification is the definitive legal act that binds the state internationally.



3. Instruments Currently Eligible for Domestication

NASS has the constitutional authority to pass a domestication bill for the following instruments, which have been signed, ratified, and deposited [NASS]:

- **The Core AfCFTA Agreement & Phase 1 Protocols:** Includes the baseline framework, the *Protocol on Trade in Goods*, the *Protocol on Trade in Services*, and the *Protocol on Rules and Procedures on the Settlement of Disputes* [TRALAC].
- **Protocol on Digital Trade (DTP):** Formally ratified by the Executive on **6 November 2025**. This protocol is fully eligible for statutory inclusion in the current domestication bill.

4. Instruments Barred from Domestication Pending Executive Ratification

The following four protocols cannot be included in any domestic enforcement legislation because they have **only been signed**, not ratified:

- **Protocol on Investment** (Signed: February 2023)
- **Protocol on Intellectual Property Rights (IPR)** (Signed: February 2023)
- **Protocol on Competition Policy** (Signed: February 2023)
- **Protocol on Women and Youth in Trade** (Signed: February 2024)

5. Institutional Capacity Action via NILDS

To eliminate technical implementation bottlenecks, NASS must maximize the resources of the **NILDS Division on AfCFTA Law and Policy Programme** [NILDS]:

- Clerks must collaborate directly with the division to clear technical clauses within the Digital Trade Protocol (DTP) regarding data sovereignty and cyber-payments, drawing upon the core concepts in *Ladan (2024), NIALS Press*.
- NILDS will anchor inter-committee hearings using the structural mechanics detailed in *Introduction to AfCFTA Law (Ladan, 2026)* to ensure the bill aligns seamlessly with existing Nigerian statutes like the NDPC Act and the NCS Act 2023 [NCS, NILDS].

6. Legislative Directive and Strategy

To ensure legal certainty and avoid constitutional challenges, NASS should adopt a phased approach [NASS]:

1. **Proceed with the Current Bill:** Pass the AfCFTA Domestication Bill using the core agreement, the Phase 1 Protocols, and the DTP as a consolidated text, relying on NILDS draft provisions [NASS, NILDS].
2. **Issue a Parliamentary Resolution:** Request that the Executive formally ratify the remaining four protocols (Investment, IPR, Competition, and Women/Youth in Trade).
3. **Commit to a Consolidated Text Later:** Include a transition clause in the current bill [NASS]. This clause will allow NASS to quickly integrate the remaining four protocols via a consolidated amendment bill as soon as the Executive completes their ratification [NASS].