

Lessons for Africa in the CFTA before Crucifying Nigeria's President

Nigeria did not sign on to the framework arising from the negotiations of the African Continental Free Trade Agreement (AfCFTA), which held in Kigali - Rwanda precisely on the 21st March 2018. There have been several blames, lamentations and castigations (some constructive though) that have resonated the entire media space till this date even casting aspersions on the Nigeria's leader - President Mohammad Buhari, for declining to sign the dotted lines. There have also been deplorable barrage of blames on some trade and private sector practitioners, albeit some indirectly, for convincingly advising the President into the decision of withholding his signature. As the dust around Nigeria and the CFTA gradually begins to settle down, it is perhaps needful to appropriately reflect and contextualize the needless stigmatization on the country, the President and indeed Nigerians for the well thought out decision on the CFTA.

For the records, no right thinking Nigerian, nay, African would advise against the well-thought out arrangement called AfCFTA, which is even long overdue especially with recourse to the thrust behind the establishment of the African Union (and right from when it was the Organization of African Union - OAU). In the first place, if African countries have for long been enmeshed with trade agreements under different bilateral and multilateral arrangements and configurations, what makes it strange having an intra-African trade Agreement that increases trade and wealth redistribution among Africans? In terms of objectives, the CFTA is well-couched and framed within the ultimate targets of delivering on the three pronged pillars of wealth creation, sustainable development and poverty reduction. The foregoing intendment is gorgeously dressed with the attractive provisions of Article 3 of the Framework Agreement establishing the AfCFTA which seeks to create a single African market for Goods, Services and Movement of Persons with a view to deepening economic integration of the continent in line with the vision of Agenda 2063. By these provisions, every patriotic African who has travelled or transacted business across the continent can only copiously applaud this abundant expression of freedom and borderlessness associated with the AfCFTA in the making.

In view of the above context, it is therefore important to categorically state that the President of Nigeria did not refuse to sign the CFTA as has been (mis)conveyed by many castigators. Rather, what the President has done is to withhold his signature to allow for proper buy-in and ownership of the outcomes of the negotiations through stakeholders and citizens consultations (including sensitization). Such consultations are appropriate mechanisms required for contemporary socio-economic development especially for Agreements having international and cross-border dimensions that specifically commit the country and her citizens to certain obligations. Perhaps what critics have refused or ignored to appreciate is that the AfCFTA is loaded with implications on the food security and overall socio-economic livelihoods of the people; and therefore, any responsible Government must provide robust platform for vigorous and comprehensive scrutiny of the output. In this regard, Nigeria's President stands tall and should be respected among his colleagues irrespective of the lenses worn by some observers and their dimensional view of his action.

It is noteworthy that prior to the March 21st planned signing of the AfCTFA Framework in Kigali, there was a window created for Member States to engage their citizens in consultations with the AfCFTA draft text. The truth is that while the duration of that window was not enough to mobilize and sensitize citizens on such a highly technical subject; essentially and regrettably, many Countries in Africa did not effectively undertake such needful journey of sensitization

of their people. To many Governments, they preferred to embark on sensitization after signing of the Agreement (putting the cart before the horse) thereby condemning the citizens to a secondary and irrelevant status to the Agreement. This action completely negates the concept of good governance especially within the confines of democracy which pre-supposes that persons in Government are trustees to the citizens.

Specific reference should be made to Article 2 (10) of the African Charter on Democracy, Elections and Governance which seeks to “promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs”. This provision was Inspired by the objectives and principles enshrined in the Constitutive Act of the African Union, particularly Articles 3 and 4, which emphasise “the significance of good governance, popular participation, the rule of law and human rights; and the determination to promote and strengthen good governance through the institutionalization of transparency, accountability and participatory democracy”. Therefore, if the African leaders could negate these clear provisions by side-lining and ignoring citizens participation, what is the guarantee that the signed AfCFTA would be effectively implemented and that the commitments therein honoured by those who speedily signed? Why must we then crucify the man who paused for citizens to reflect in obedience to the tenets of the AU Charter?

Perhaps most laughable is that most of those who cried foul against Nigeria President’s withholding of his signature had neither seen the copy of the concluded Framework Agreement nor gone through the contents of the 253-page document. Yet, one more bullet for those critics is that the President’s withholding of his signature has even provided them the only opportunity to discuss, perhaps analyse or even organize meetings around the subject of the AfCFTA, and for such Nigerians, yes Africans, they should be most grateful to Nigeria’s Government.

The message is that while we all need and crave for the AfCFTA, however, African citizens need to determine the kind and contents of the AfCFTA they want. Opportunities must be given for questions to be asked perhaps long before wrap up with signature. For instance, how many people have asked what was responsible for the unprecedented speed and velocity applied in concluding the CFTA, and who is chasing or pursuing Africa that we cannot slow down for a patient and proper articulation of the collective needs and interests of the people? African citizens equally wish to know, what is the place of the Regional Economic Communities (RECs) within the AfCFTA implementation? What is the status of the Regional FTAs and existing Customs Union processes within the AfCFTA? How does the ECOWAS Trade Liberalization and the ECOWAS Common External Tariff (CET), for instance, operate within the AfCFTA? What is the place of the Economic Partnership Agreement (EPAs) with the European Union within the AfCFTA implementation? How are these numerous Trade Agreements African countries have signed to be managed without conflicts and frictions? The negotiators may know (or claim to know) the answers to these questions, but the citizenry need to know even more and therefore be provided the opportunity.

Furthermore, the AfCFTA Framework provides for the liberalization of 90% of Goods and Services sectors. African citizens are entitled to further query and rightly too how the 90% was arrived at? Are there empirical evidences that led to such decision? Given that the African Union had during the EPA negotiations cautioned Member States over the scope of liberalization, would it not have been perhaps more instructive or convincing to apply an experimental 60% liberalization with a gradual movement (towards “substantially all trade”) that essentially reflects the status of development of the Member Countries?

With regard to volume of the AfCFTA package, do we really need to take up Goods and Services sectors simultaneously? Would it not have rather been instructive to concentrate on Agreement in Goods first, and experiment with a gradual movement towards Services? Did the negotiators consider that many African countries do not even have services policy in place? Is it not worthy of note that many RECs do not even have harmonized/common policy on Services sector? Was there any legal audit of the services sector by the way? What are the factors that determine the choice of services sectors for liberalization and what are the positions and agenda provided by services practitioners?

Where comes the role of the Parliament in the CFTA especially given that some countries require some statutory actions that are sacrosanctly domiciled only within the mandate of the lawmakers? Beyond parliamentary actions, has there been any comprehensive exploration of the domestic economic laws in the countries to reflect on the level of compliance, and find out and or ensure that the conclusions of the AfCFTA do not offend the spirit and perhaps letter of any? Overall, what is the level of compliance or areas of conflict between the AfCFTA provisions and the domestic development strategy and specific policies (like the Economic Recovery and Growth Plan – ERGP in Nigeria)? For Nigeria, is the AfCFTA Framework in alliance with the country's industrial policy and the Industrial Revolution Plan? How would it complement the Anchor Borrowers Scheme (ABS), the Growth Enhancement Scheme (GESS), Value Chain Development Programme (VCDP), and other agriculture related initiatives and investments that have assisted Nigeria's quick pull from economic recession? What volume of job could be created by the AfCFTA implementation and from which sectors and value chains could these be identified within a specified period? What is the capacity of the AfCFTA to lead to the attraction of investments (FDI and Portfolio) into the country and to what volume, capacity and when (timeline)?

For a country like Nigeria, yes, there is no Member State in Africa where Nigerians are not found doing business, and to that extent, AfCFTA would be a step in the right direction to expand their tentacles of unhindered trading activities and other economic operations. However, while it was expected that negotiations would have taken cognizance of their concerns and challenges or interests, they sadly missed it just like every other stakeholder-constituency. The reason is that the platform provided was only for briefing on negotiations reports.

Similarly, apart from the need for a Nigerian trade policy (which Nigeria does not have) that is indispensable for accurate navigation of the CFTA negotiations, it was expected that negotiations ought to have resulted from some classical analysis and evidence-based research approach. Such research product would have been critical in directing the compass for the negotiations in terms of trade-offs that relied on cost and benefits analysis. Unfortunately, again, apart from the African Union Commission's study, there was no Nigeria-specific study that the negotiations can point to as the basis for Nigeria's positions or the ones that indicated the red and green lines as a guide in the CFTA negotiations. The above scenario most likely applies to many African countries, yet, we were all speeding almost uncontrollably to conclude the negotiations. How can we then guarantee a people-friendly output that satisfies the yearnings and aspirations of the founding fathers of African Union?

The inference from the foregoing is that African countries lost the huge opportunity to draw lessons from the negotiations of the EPA on the importance of public-private partnership. The private sector was either not given the right seat on the CFTA negotiations or denied the express

opportunity to cohabit in steering the negotiations to safety. Interestingly, the EPA negotiations in Nigeria had an integrated mechanism for regular and comprehensive x-rays and inputs from various stakeholders who were also part and parcel of the negotiations. Unlike the CFTA negotiations, the EPA negotiations set up Sub-committees that supplied the technical and practical ‘negotiation tools and weapons’ which the core Technical Team was regularly translating, articulating and forming into Nigeria’s positions for the effective prosecution of the negotiation. Such open process which CFTA negotiations unfortunately lacked made outcomes very widely suspicious and unpopular. At every given point in the EPA negotiations, citizens automatically mobilized around the thematic issues resulting in a calibrated force that eventually collectively voiced and declared a final NO verdict thereto, giving the Government no choice than to totally succumb and express the voice of the people on the final outcomes of the EPA. While some have blamed the Private Sector for not engaging enough on the CFTA (which to an extent may be true), perhaps the difference is that the door was not fully opened to them given that the CFTA negotiations only provided Committee platform for ‘briefing’ selected stakeholders on negotiation meeting reports.

One very critical lesson is that Africa must come to terms with the contemporary place of Non-State Actors (NSA) composed of the labour Unions, Civil Society and the Private Sector Organizations in trade and economic policies; and more so, their indispensable roles in the negotiations of such policies and agreements. This is even more significant for agreements (like the AfCFTA) which have international dimensions. Africans must once again realise that it is one thing to sign the dotted lines but another thing to implement signed Agreements; and it is the NSAs that hold Governments accountable for the signed commitments. This is actually where both the African Union (AU) and the Member States need to reflect more on, with a view to reconsidering some steps. The AU and her Member States are not aliens to signing Agreements and Declarations. Apart from the AU Charter on Democracy earlier mentioned, the Comprehensive African Agriculture Development Programme (CAADP) and the Malabo Declaration, for instance, are among many commitments that have been signed in the past. In fact, the CFTA relates to the 5th commitment of CAADP specifically regarding intra-regional trade on agricultural commodities. How many of these past commitments can be said to effectively implemented and accounted for? For the ones that are being implemented, what have Governments role been in terms of the effective monitoring for compliance? It is the NSAs that have regularly been literally ‘up in arms’ putting reminder pressures on the various Governments (through evidence-based research and analysis, lobbying and influencing) to implement the obligations, even when there are clear provisions (as with the CAADP) like Joint Sector Reviews (JSR) and Biennial Reviews (BR).

This draws attention to the provisions of the Agreement establishing the AfCFTA, and specifically Part III, Article 9, which itemizes the Institutional Framework for the implementation of the AfCFTA and most glaringly ascribes no role for the NSAs. This is a misnomer within the context of contemporary dynamics of international trade Agreements which copiously recognizes the place of the NSAs as partners in trade and development implementation. Of a truth, the Private Sector and other NSAs in Africa have overtime gathered practical wealth of experience that should be leveraged upon for the successful articulation, implementation and monitoring of the CFTA. More so, the Private Sector as a critical stakeholder in the economy are the eventual direct beneficiaries or brunt bearers (as the case may be) of the outcomes of the CFTA implementation. In addition, these sectors wield a very strong locus given that they constitute the critical force that are expected to invest the resources required to galvanize the implementation of the CFTA. They must therefore neither be ignored nor ‘have their hairs shaved in their absence’ but be given a befitting seat.

Finally, the take home lesson for Africa in the CFTA is the strong point made by Nigeria that the ordinary citizens of Africa may no longer be taken for granted, and even if they are silent over the conduct of negotiations or outcomes thereof, they would definitely present harder questions at the long run; and this is the true reflection and demonstration of democracy in action. Ultimately, before we crucify Nigeria's President, let the 'one country' that is not guilty of any misdeed in the negotiations process and approach pick the first stone and prepare to cast while the citizens watch. The entire questions posed herein need to be answered, and the lessons learnt or proven otherwise. The people must be provided the platform to express their views and opinions and if possible kick or demonstrate against some outcomes or decisions. While this is by no means to blame Nigeria, nay, African negotiator(s) of the CFTA, the wisdom of Nigeria's President in avoiding potential antagonism and resistance to the implementation of the AfCFTA by momentarily withholding his signature must therefore be commended. He only respected the Latin maxim - "Vox Populi, Vox Dei" and indeed, the people have loudly spoken.

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