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Q1: Respondent details

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Q2: Country or Customs territory

NIGERIA

Q3: Organization

Academic

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Q4: Title of case story

Overcoming the Challenges of Implementing Trade Facilitation Agreement in Nigeria

Q5: Case story focus

Trade Facilitation.

Q6: Case story abstract

Trade Facilitation Agreement (TFA) seeks to address barriers related to movement, release and clearance of goods including goods in transit. Nigeria recognizes the benefits of the TFA that was agreed upon in 2013 WTO Bali Ministerial Conference.

It is believed that its implementation has the potential to reduce trade cost, improve competitiveness and integrate Nigeria into the global value chain. In order to reap the benefits accruable from TFA, (including reducing transferrable trade costs between 'on the border' and 'behind the border' activities), Nigeria has linked its domestic trade facilitation programmes with cross border trade facilitation strategies.

Based on the fact that Nigeria is geographically surrounded by land borders, the national trade policy progressively leans towards an all-inclusive approach in boosting trade and strengthening institutional frameworks. Consequently, a National Committee on Trade Facilitation (NCTF), formerly known as Task Force on Trade Facilitation, was established with the aim of identifying various barriers to Trade Facilitation(TF) in Nigeria, providing solutions to resolve these obstacles and coordinating the successful implementation of TF in Nigeria.

This case story illustrates workable approaches and steps that would ensure trade gains through the implementation of TFA for a country with diverse challenges like the case of Nigeria.

Q7: Who provided funding?

Bilateral donor, Multilateral organization

Q8: Project/Programme type

Single country

Q9: Your text case story

(Read the full case story in the ensuing pages)

Q10: Lessons learnt

Respondent skipped this question

Overcoming the Challenges of Implementing Trade Facilitation Agreement in Nigeria

Abstract

Trade Facilitation Agreement (TFA) seeks to address barriers related to movement, release and clearance of goods including goods in transit. Nigeria recognizes the benefits of the TFA that was agreed upon in 2013 WTO Bali Ministerial Conference. It is believed that its implementation has the potential to reduce trade cost, improve competitiveness and integrate Nigeria into the global value chain. In order to reap the benefits accruable from TFA, (including reducing transferrable trade costs between ‘on the border’ and ‘behind the border’ activities), Nigeria has linked its domestic trade facilitation programmes with cross border trade facilitation strategies. Based on the fact that Nigeria is geographically surrounded by land borders, the national trade policy progressively leans towards an all-inclusive approach in boosting trade and strengthening institutional frameworks. Consequently, a National Committee on Trade Facilitation (NCTF), formerly known as Task Force on Trade Facilitation, was established with the aim of identifying various barriers to Trade Facilitation(TF) in Nigeria, providing solutions to resolve these obstacles and coordinating the successful implementation of TF in Nigeria. This case story illustrates workable approaches and steps that would ensure trade gains through the implementation of TFA for a country with diverse challenges like the case of Nigeria.

Background of Nigeria’s economy

Nigeria is a Federal Republic with thirty-six (36) states and a Federal Capital Territory¹. Nigeria has a land area of 910770 square kilometers (World Bank Indicator, 2016)². Nigeria is situated in West Africa and shares land borders with the Republic of Benin, Chad, Cameroon, and Niger. In view of its geographical landscape and federal structure, there is multiplicity of institutions responsible for trade and facilitating trade. According to the International Monetary Fund (IMF) World Economic Outlook, 2016, Nigeria has remained the largest economy in Africa, despite its current challenges, placing South Africa in the second position in terms of Gross Domestic Product (GDP). Nigeria’s GDP accounts for US\$415.08billion in 2016³. The shares of Services, Agriculture and Industry in GDP are 53.18%, 23.11% and 23.71% respectively in 2015 (National Bureau of Statistics, 2015). The oil and gas sector is the main source of revenue in Nigeria accounting for about 35% of the GDP, and petroleum exports revenue accounts for over 90% of total exports revenue (OPEC Annual Statistical Bulletin 2016). However, the volatility of global oil price since 2011, has adversely affected the economy (World Bank Commodity Forecast Price Data, 2016).

Currently, Nigeria is facing the worst recession in 29 years (NBS, 2016) but the good news is that, it has been forecasted that the economy will grow away from its current recession in 2017

¹ <http://www.nigeriaembassyusa.org/index.php?page=nigeria-past-present-and-future>

² <http://data.worldbank.org/indicator/AG.LND.TOTL.K2?locations=NG>

³ <https://www.channelstv.com/2016/10/19/imf-affirms-nigeria-africas-biggest-economy/>

(IMF report, 2016). The Government is making efforts to diversify its economy by growing the non-oil sector, currently represents 89.71% of GDP (NBS, 2106); implementing some reforms and measures to boost the economy, such as building infrastructure, streamlining of the public sector, single treasury account, tax compliance; preparation for zero-budgeting beginning from 2016; and increasing the ratio of capital to recurrent expenditure to 30:70. Trade facilitation will be leveraged upon to further boost non-oil sector trade and complement Nigeria's programmes of diversifying the economy. In order to properly understand the Nigerian trade facilitation situation, the OECD Trade Facilitation indicator, 2013, reveals that in the area of information availability, Nigeria's performs better than the averages of Sub-Saharan African (SSA) and Lower Middle Income Countries (LMICs) but need to improve in the areas of automation, streamlining of procedures and internal border agency co-operation.

The History of National Committee on Trade Facilitation in Nigeria

Nigeria acknowledges Trade Facilitation (TF) as a major tool to advance economic development goals and integrating developing countries into the Multilateral Trading System (MTS). In this regard, Nigeria adopted the recommendations from the report of the WTO Needs Assessment carried out in 2008 and 2013 to establish Trade Facilitation Task Force (TFTF). In 2011, the Honorable Minister of Federal Ministry of Industry, Trade and Investment (FMITI) constituted the TFTF with its Terms of Reference (ToR) approved by the Federal Executive Council (FEC), to ensure that TF works efficiently and effectively in Nigeria and to achieve a transparent and competitive trade regime.

However, in 2014, the TFTF was replaced with the National Committee on Trade Facilitation (NCTF) as part of fulfilling its WTO commitments under Article 23.2 of the Trade Facilitation Agreement (TFA). Its membership was reduced from twenty-six (26) to twenty-two (22) representatives from relevant Ministries Departments and Agencies (MDAs) including the FMITI as chairman of NCTF⁴. The majority of its members are representatives from Agencies and Organized Private Sectors (OPS). Also, the ToR was reviewed to ensure effectiveness of the NCTF. It is believed that, for any coordinating Committee to be effective and efficient, it should not be too large or unwieldy as it was seen as in the case of Nigeria, the need to streamline the composition of the Committee.

The Activities of the National Committee on Trade Facilitation

⁴ Membership of NCTF includes: Federal Ministry of Industry, Trade & Investment, Nigeria Customs Service, Federal Ministry of Finance, Federal Produce Inspectorate Service (a division in FMITI), Federal Ministry of Transport (used to be a separate Ministry, now merged with Federal Ministry of Aviation) , Central Bank of Nigeria, Nigerian Port Authority, Federal Airports Authority of Nigeria, Nigeria's Shippers Council, National Planning Commission, National Agency for Food and Drug Administration and Control, Standards Organization of Nigeria, Nigeria Export Promotion Council, Nigeria Export Import Bank, Nigeria Agricultural Quarantine Service, Nigeria Immigration Service, Nigeria Police Force, Federal Roads Safety Corps, Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture, Manufacturers Association of Nigeria, National Association of Nigerian Traders, National Association of Clearing & Forwarding Agency.

The establishment of the NCTF provides co-ordination role on the activities of Trade Facilitation (TF). The Committee has also developed action oriented work plan with measurable goals that would have feedback mechanism. The Committee does not only play a supervisory role on TF in Nigeria but also ensure Nigeria improve on its ease of doing business ranking; reduce measures that impedes movement and clearance of goods among others. The Director of Trade in FMITI is the Chairman of the Committee and the FMITI has continued to serve as secretariat to the Committee. The NCTF is expected to meet from time to time as the needs arises but given the budgetary constraints in Nigeria, especially, budgetary allocation to FMITI, the NCTF has not been able to carry out its activities effectively to fulfill its mandates.

Support from Donor Agencies

The NCTF has received various supports from Development Partners on TF at the national, regional and international levels but for the purpose of this case story, it is limited to national support programmes on TFA implementation.

Trade Facilitation Agreement (TFA) – Notification

Following the major outcome of the 9th WTO Ministerial conference held in Bali, Indonesia in 2013 on TFA, Nigeria notified its Category “A” commitments under the Agreement on TF to the Preparatory Committee on TF on 10th November, 2014. On the process of the notification of WTO TFA on category “A”, the FMITI with consultations of stakeholders on TF and NCTF forwarded a memo on notification of TFA category “A”, signed by the Honorable Minister of FMITI to FEC for approval. Thereafter, the FMITI writes a letter conveying the approval to notify TFA category “A” to Nigeria Trade Office, Geneva for onward transmission to the WTO Secretariat.

Nigeria received support from Department for International Development (DFID) for the development of strategic action plan from 2010-2013. This was adopted and reviewed with the support of European Union (EU)/ Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) to achieve the categorization of Nigeria's TF implementation Commitments of category “A” commitment which was approved by FEC in 2014. In addition, in 2014, Nigeria benefited from the International Trade Centre (ITC) programme on trade facilitation aimed at assisting countries to categorize trade facilitation measures. Currently, the United States Agency for International Development - Nigeria Expanded Trade and Transport Project (USAID-NEXTT) in collaboration with the FMITI is assisting the National Committee in preparation of categorization of Nigeria's TF implementation Commitment of category “B” and “C”. These various supports including the implementation of customs reform and modernization initiatives leading to the adoption of the Single Window Trade Portal, WTO needs assessment programme, the World Bank scoping mission to Nigeria in, 2016 have assisted, and continued to assist the NCTF in the area of TF.

Recently in October, 2016, the United Nations Conference on Trade and Development (UNCTAD) organized Empowerment Programme for the NCTF in Nigeria. The programme is

within the framework of the “Transparent Trade Procedures in the region of the Economic Community of West African (ECOWAS)” project. The programme is aimed at increasing the understanding of the NCTF on the benefits of trade facilitation benefits, its impact on development, its implications for global supply chain management, and best practices. The project was funded by the GIZ. Also, Nigeria is currently benefiting from the ECOWAS-EU-BMZ-UNITAR e-Learning course on "WTO Trade Facilitation Agreement & Regional Trade Facilitation Rules and Regulations aimed at enhancing individuals’ knowledge on the TFA.

Trade Facilitation Agreement (TFA) -Ratification

International trade agreements will remain mere documents in countries that are signatories to these agreements if their impacts are not felt by the citizens. Ratification of any agreement is not enough for a sovereign nation; it is more important for a country to adopt it into her domestic legal system, integrate the agreement into national standard and make it national law. Since several decades, Nigeria has ratified several international treaties such as trade agreements, but many of these trade agreements are not operational because they have not been domesticated. With the failure to domesticate them, these agreements are not national laws and therefore, cannot be used to defend cases involving violations before courts of law. In essence, violators are not liable for any international trade agreements that have not been domesticated in the country.

On TFA, Nigeria recognized the importance of its ratification and domestication. Nigeria has already commenced work on TFA ratification and has recently completed the process. The ratification process in Nigeria can be described as being complex in nature. Usually, it depends on the importance of a particular agreement with evidence based justifications. The Federal Ministry of Industry, Trade & Investment (FMITI) is the focal point responsible for trade relations between Nigeria and its trading partners as well as coordinates trade policy framework for Nigeria. The Ministry also established and coordinates the activities of the Enlarged National Focal Point (ENFP) on trade matters, Technical Committee on Trade Policy Review, and NCTF. The NCTF, who coordinates Trade Facilitation (TF) issues in Nigeria, is also saddled with the responsibility of identifying various non-tariff barriers and obstacles to TF in Nigeria with a view to finding most plausible ways of resolving them.

Similarly, the Ministry coordinates the activities of the NCTF, collates input from various stakeholders’ consultative meetings as their position and forward to the Honorable Minister, who endorses and thereafter transmits to the Federal Executive Council (FEC) for approval in the form of a memorandum. The FEC comprises of Honorable Ministers, who discusses issues relating to trade policy among others reviews and receive administrative directives on trade policy and implementation in Nigeria as well as approves major policy paradigms through the President in Council. The Attorney General of the Federation in the Federal Ministry of Justice (FMJ) in cases requiring ratification prepares Executive bill to parliament and afterwards prepares the instrument of acceptance of the protocol once approval is granted by parliament. Thereafter, it is forwarded to the President for endorsement and seal.

In 2015, Nigeria began the process of the WTO TFA ratification. It went through a bottom up approach. It started with stakeholders meetings with the Ministry harvesting their respective inputs to formulate positions. The positions were thereafter sent to the Honorable Minister of FMITI, who endorsed and transmit to the FEC for approval. In August, 2016, the TFA received the FEC approval and currently, the FMJ is preparing the instrument of ratification to be returned to the FMITI for onward transmission to Nigerian Trade Office, Geneva, Switzerland, who will finally submit to the WTO Secretariat.

Lessons learnt

Despite institutional challenges arising from multiple agencies facilitating trade, the establishment of the NCTF created a platform for cross fertilization of ideas on TF implementation issues and consultations. The original idea of including all trade agents into the committee did not work well, hence the need for a review and it was streamlined to core agencies responsible for facilitating trade. It is also important for the Committee to be focused; hence a ToR was developed for the Committee. The Committee developed its operational guidelines including producing a work plan. However, the work plan is subject to scrutiny of the Enlarged National Focal Point (ENFP) that has responsibility for trade policy, implementation and negotiation matters; that comprises of about fifty-two (52) institutional members comprising academia, private sector and public sector institutions.

Next steps

On legislation, since the NCTF was established based on Article 23.2 of the Trade Facilitation Agreement (TFA), the next step for Nigeria is to give legal backing to the NCTF either through Parliamentary Act or through Executive Order of Cabinet i.e. the FEC. This will enable the NCTF enjoy sustainable funding from government. Also, Nigeria needs to accelerate efforts to ensure efficient service delivery on trade facilitation by expediting the ongoing review process of Customs & Excise Management Act (CEMA) which is still at the level of consultations between the Nigeria Customs Service (NCS) and relevant stakeholders. The CEMA, after consultations is expected to be submitted to the National Assembly for approval and thereafter, assent of Mr. President. The ongoing review takes cognizance of the need to modernize customs administration in conformity with the World Customs Organization (WCO) and WTO Customs Valuation Agreement to facilitate customs procedures.

On implementation and strategy, Nigeria needs to continue to seek support from donors on Trade Facilitation (TF), particularly follow-up on exiting supports such as World Bank, ITC, EU/GIZ, NEXTT-USAID, which is currently assisting Nigeria in constructing the LAGos-KANo-JIbiya (LAKAJI) Corridor⁵. This Corridor has been identified as strategic location and importance for

⁵ (LAKAJI) Corridor is a 1,225 km transport route that runs from the port of Lagos in the Southern part of Nigeria through the commercial center of Kano, Northern part of Nigeria and ending in Jibiya at the border with Niger.

domestic, regional and international trade, as it is the main route for movement of goods from northern to southern Nigerian ports. These various support are effort towards building best practices in TF.

This case story is based on the author's understanding of the situation analysis of issues as at when written. It does not in any way represent the position of the Federal Ministry of Industry, Trade & Investment nor any Nigerian Government Institution