Rules of Origin in the Africa-EU Strategic Partnership Agreement and Nigeria's international trade

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ABSTRACT

This paper examines the key issues and assesses the impact of the rules of origin (RoO) and cumulation on Nigeria's international trade within the context of Africa-EU partnerships agreements. The review of literatures shows that RoO are an important element in determining the final benefit associated with the bilateral trade relationship under preferential trade agreements. It notes that Africa-EU bilateral trade relations dates back to the Lome Conventions that gave preferential entry into EU of some products, and now to the new Africa-EU partnership which lays less emphasis on RoO. An analysis of available data show that RoO have had limited impact on Nigeria's exports trade with the EU since her major exports (crude oil) does not benefit from RoO. Instead, there has been an increase in intermediate imports from EU which suggests trade creation in favour of EU while the rising trend in trade within Africa could be the result of bilateral cumulation and intra-Africa FTAs/economic integration. The paper further argues that the increase in trade with USA and others may be the result of trade reorientation as a result of switching from EU to other cheaper partner countries, especially USA in the face of AGOA. Among the challenges which militate against the RoO are: global reduction in tariff by WTO and the changing focus of the objectives of Africa-EU partnership principles from PTA to regional support. In concluding, the paper notes that the new partnership agreements needs to reconsider its position on RoO as it is a potent tool that is mutually beneficial in partnership. As such, the EU must go beyond the WTO GSP and AGOA to give preferential treatment to goods originating from Africa.

Key Words: Rules of origin, international trade, Africa-EU partnership, Lome Conventions, preferential trade agreements.

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1.0 Introduction

Within any preferential trade agreements (PTA), rules of origin (RoO) exist to prevent third party countries from taking advantage of the PTA concessions. The concessions are usually in the form of reduction or exemption from custom duties on eligible products originating from the trading partner involved on a non-reciprocal basis.

A pertinent question to ask is why is the RoO a precondition for the implementation of a preferential trade agreement? The answer is not far-fetched as the theoretical literatures {Augier, Gasiorek & Tong (2005); Pelzman & Shoham (2010)}argue that since RoO and its cumulation can have important effects on direction and pattern of trade, these rules are needed to ascertain eligibility of goods for exemption from duties in PTAs. Perhaps, this is one reason why the precursor of the Africa-AU partnership agreements dwelt extensively on RoO in five (5) such agreements - known as Lome Conventions.

The Lome Conventions (I – IV in 1976 - 2000) is a preferential trade agreement between the European Community (EC), now European Union (EU) and 71 African, Caribbean, and Pacific (ACP) countries. The initial agreements signed in 1976 had two main components: i) ACP agricultural and mineral exports were to enter the EU "free of duty", under a preferential scheme based on a quota system, for products such as sugar and beef; and ii) the EU committed 3 billion Euro in aid and investment in ACP countries. The initial Convention has been revised three times; Lome II, Lome III and Lome IV and retained the preferential trade components until the ACP and EU decided in Cotonou on 23 June 2000, to overhaul their previous trade relations for a new 20 year partnership agreement which laid less emphasis on RoO.

While acknowledging that the decision of the EU may have been informed by the World Trade Organization (WTO) rules which discourage discriminatory preferential treatment, this is happening at a time when the United States of America is fostering trade relation with Africa via the African Growth and Opportunity Act (AGOA) based on rules of origin. Perhaps, there is scope for deepening Africa-EU partnership relationship through the review of its implications for Africa's and in particular Nigeria's trade with the EU.

The objective of this paper is to examine the key issues of the impact of the rules of origin and cumulation on Nigeria's international trade within the context of Africa-EU partnerships agreements. The rest of the paper reviews the literatures on the concept and measurement of the impact of rules of origin in section 2, while

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section 3 identifies the principal form of RoO and cumulation which the Africa-EU partnership entails. Section 4 assesses the impact of the EU-African partnership rules on trade performance while the last section discusses the challenges, prospects and policy implications.

2.0 Literature Review

This section reviews a number of literatures with the sole objective of understanding the concept of RoO, its measurement and an evaluation of its impact on trade patterns and flows.

2.1. Concept of RoO in a PTA

Rules of origin (RoO) are an important element in determining the final benefit associated with the bilateral trade relationship under free trade arrangements. These rules prevent imports from non-member countries from entering the free trade area via the country with the lowest external tariff. Several such PTA exist between US and Latin America (NAFTA and CAFTA), and in recent time with African countries (AGOA), and between the EU and Africa. The rules serve to ensure that third countries which are not members of these FTAs do not take advantage of the zero duty associated with them.

Several literatures {Augier, Gasiorek & Tong (2005); Pelzman & Shoham (2010)} assert that in theory, RoOs are designed to minimize the trade diversion that occurs when a company does minimal processing or assembly in a preference-receiving country to take advantage of preferences. Thus, preferential rules establish criteria to ensure that a product is sufficiently transformed in a preference-receiving country or trading area to justify allowing it to benefit from the preference. Such originating status is easy to confer when a product contains no resource content outside the PTA, but requires that limits be set for qualifying for RoO.

2.2. Criteria for Determining RoO and Cumulation

Two sets of criteria are often used to determine products that qualify for non-reciprocal preferential entry into the partners' country: the first relates to criteria which confers originating status to a commodity, while the second relates to originating status implicit in bilateral or diagonal cummulation.

2.2.1. Commodity Originating Rule Criteria

Because RoO are applicable to imported goods from partnering countries, the good must show sufficient evidence that intermediate processes which culminated in the production of the final products show sufficient evidence of origination from the preferential trade area. Four such requirements are:

i. Requirements regarding domestic content. This requirement demands that the domestic resource content of the product should be sufficiently high while the value of the imported intermediate inputs for its production should not be more that 40% but sometimes as low as 15%.
ii. Last substantial transformation requirement. This specifies that for a product to originate from a particular country, it must be substantially transformed there into a new and different article and having a distinctive name, character,

and use. In other words, there must be substantial evidence that transformation should have occurred there.

iii. Specified process or Technical test of origin requiring that certain products undergo certain manufacturing operations in the exporting country or prohibiting the use of certain materials

iv. Changes in tariff classification (TC) requiring product to belong to a different TC from that of its imported inputs or exceptions attached to certain changes in tariff classification which prohibits the use of non-originating materials

Pelzman & Shoham (2010) notes that contrary to the seemingly implicit concessions to final goods producers of a partnering country, the non-reciprocal preferential protection could become counterproductive with emphasis on production and assembly of intermediate goods which enhance the position of intermediate producers. Therefore, if one member's market is much larger than the other, firms have incentives to locate factories there via foreign direct investments, where the final goods are to be sold, thereby evading the rules of origin.

2.2.2. Cumulation Rule Criteria

Cumulation is a term which refers to exception allowing FTA producers to import non-originating materials from other FTA member countries without affecting the final product's originating status. Three types of cumulation are identified in the literature

i. Bilateral cumulation which is most applicable to trade between two partners in an FTA. It stipulates that producers in country A can use inputs from country B without affecting the final good's originating status provided that the inputs are themselves originating in the area (i.e., provided that they themselves satisfy the area's RoO).

ii. Diagonal cumulation (applicable to EU) occurs between 3 or more countries with interlinked trading agreements. It specifies that countries tied by the same FTA can use materials that originate in any member country as if the materials were originating in the country where the processing is undertaken.

iii. Full cumulation occurs between 3 or more countries but involving more flexibility than with diagonal cumulation. It refers to all stages of processing or transformation of a product within the FTA, and can be counted as qualifying content regardless of whether the processing is sufficient to confer originating status to the materials themselves.

2.3. Empirical Measures

Augier, Gasiorek & Tong (2005) provides an empirical examination of the possible impact of rules of origin on patterns of trade in the European context. The methodology employed is that of an augmented gravity model with focus on the impact within the Pan-European system of cumulation. Their findings suggest that rules of origin do indeed restrict trade, that the cumulation of such rules could increase trade in the order of 50%, and that the impact is greater on intermediate than manufacturing trade.

Hertel, Hummels, Ivanic & Keeney (2004) compares the linkage between econometric estimates of key parameters and their usage in CGE analysis as better evaluating criteria of the likely outcome of a Free Trade Area of the Americas. They study the elasticity of substitution among imports from different countries, which is especially critical for evaluating the positive and normative outcomes of FTAs. They then match the data in the econometric exercise to the policy experiment at hand, and employ both point estimates and standard errors from the estimates to takes explicit account of the degree of uncertainty in the underlying parameters. They drew a sample from a distribution of parameter values given by their econometric estimates to generate a distribution of model results, from which they construct confidence intervals. Their finding show that imports increase in all regions of the world as a result of the FTAA, and this outcome is robust to variation in the trade elasticities. Ten of the thirteen FTAA regions experience a welfare gain at more than 95% confidence level. They conclude that there is great potential for combining econometric work with CGE-based policy analysis to produce a richer set of results that are likely to prove more satisfying to the sophisticated policy maker.

Duttagupta and Panagariya (2003) incorporates intermediate inputs into a small-union general-equilibrium model, gauge the welfare economics of preferential trading under the rules of origin (ROO) and then demonstrates that the ROO could improve the political viability of Free Trade Agreements (FTAs). Two interesting outcomes are derived. First, a welfare reducing FTA that was rejected in the absence of the ROO becomes feasible in the presence of these rules. Second, a welfare improving FTA that was rejected in the absence of the ROO is endorsed in their presence, but upon endorsement it becomes welfare inferior relative to the status quo.

Krueger (1993) argued that there is an important protectionist bias inherent in free trade agreement which is not present in custom unions. He notes that in any customs union or free trade agreement, rules of origin have an important function because, without one, each imported commodity would enter through the country with the lowest tariff on it. He stressed further that the criterion for duty-free treatment is important in determining the economic effects of the rule of origin. It is shown that rules of origin in fact extend the protection accorded by each country to producers in other free trade agreement member countries. As such, rules of origin can constitute a source of bias toward economic inefficiency in free trade agreements in a way they cannot do with customs unions.

Krishna & Krueger (1995) studied rules of origin and hidden protection in implementing FTAs. They noted that restrictive RoO have very pronounced effects on trade and investment flows and that comparing price and costs in the different ways of specifying RoOs are quite different in long and short run due to capacity constraints. They further maintained that some rules can be ranked in terms of producer profits and that welfare is likely to be non-monotonic such that in the presence of imperfect competition, RoO may raise output and reduce prices as they become more stringent.

Baldwin & Jaimovich (2010) in a recent paper asked if FTAs are contagious. This paper presents a new model of the domino effect which is used to generate an empirical index of how “contagious” FTAs are with respect to third nations. They test the contagion hypothesis together with alternative specifications of interdependence and other political, economical and geographical determinants of FTA formation. Their main finding is that contagion is present in their data and is robust to various econometric specifications and samples.

Cadot, Melo &Portugal-Pérez (2006) evaluates the implication for ASEAN FTA of EU and US experience of RoO for a PTA arrangement. The authors argue that with free trade areas (FTAs) under negotiation between Japan and the ASEAN Free Trade Area (AFTA) members and between the Republic of Korea and AFTA members, preferential market access will become more important in Asian regionalism. Protectionist pressures will likely increase through rules of origin, the natural outlet for these pressures. Based on the experience of the European Union and the United States with rules of origin, this paper argues that, should these FTAs follow in the footsteps of the EU and the US and adopt similar RoO, trading partners in the region would incur unnecessary costs. Using EU trade with GSP and ACP partners, the paper estimates how the utilization of preferences would likely change if AFTA were to veer away from its current uniform RoO requiring a 40% local content rate. Depending on the sample used, a 10 percentage point reduction in the local value content requirement is estimated to increase the utilization rate of preferences by between 2.5 and 8.2 percentage points.

Deb, (2006) evaluates the effect of PTA (with specific RoO) and non-tariff barriers by developed (EU, USA and Japan) and two developing countries (India and Thailand) on Less Developed countries (Bangladesh and Cambodia) relative market access and trade in agricultural products. The study revealed that agricultural export items of Bangladesh and Cambodia have been facing stringent rules of origin in the developed and developing country markets. Both developed and developing countries more commonly use a number of NTBs. The study concludes that in order to serve the interests of LDCs in agricultural trade, developed and developing countries should ease preferential rules of origin as well as lower the extent of NTBs. On the other hand, LDCs would have to undertake a number of interventions in their domestic policies and engage more proactively at the WTO negotiations.

Pelzman & Shoham (2010) presented a review of empirical literatures on measuring the welfare effects of country of origins, given the pervasive spread of bilateral Regional Trading Agreements that has been generated by the United States and the European Union often with detailed RoO. In this study, the authors argued that given the complexity of the process of determination of intermediate good/process origin and perceived benefits, the existing literature which hypothesizes that these rules can easily be used to restrict or suppress trade between countries, or to divert trade away from more efficient suppliers to less efficient ones is doubtful. They therefore propose a micro-based review of increased transaction costs, rather than the number of rules in order to determine the degree to which the post-RTA trade flows are indeed affected by ROO requires. They suggest a formal methodology, which relies on the literature about tariff-equivalents, to evaluate rules of origin requirements. The suggested approach, applied at the 5-digit HS level will provide a more robust evaluation of ROOs. The suggested methodology could also be used to investigate the oft-asserted hypothesis that with time and reduced tariff barriers, the costs associated with ROOs will diminish.

It is worthy to note that empirical measures often specify which test or combination of RoO that is applicable to a product. Impact assessment therefore depends on how rules were formulated and a number of factors, the nature of underlying market structure {Krishna & Krueger (1995)} and how "sufficient working or processing is defined". Others focus on the cost of not being able to fulfill the originating requirement – in particular heights of importers' tariff. The expectation is that restrictive RoO do impact on patterns of trade and production via the composition of intermediate usage.

Some literatures examine the welfare effects of RoO. Among them are those that consider the circumstances under which restrictive RoO may be welfare increasing {e.g Falvey & Reed (2002)}. Others focus on the interaction between welfare effects and the political viability of FTA {Duttagupta & Panagariya (2002)}, while some on the impact on firm behavior {Ju& Krishna (1998)}

The conclusions from these literatures is that if final goods producers change their primary and intermediates supply source to a domestic regional one, it could imply trade suppression or trade diversion

2.4. Method of Analysis

The review of literature tends to suggest that a number of empirical approaches can be specified for this study. However, given time constraints, this study draws strongly from Pelzman & Shoham (2010) review of empirical literatures on measuring the welfare effects of rules of origin to lean towards descriptive statistics to capture system-general rules impact. If time had permitted me, I would have loved to explore the trade gravity model approach adopted by Augier, Gasiorek & Tong (2005).

The analysis covers the period 1976 to 2008, where data is available to evaluate the trends and pattern of Africa and Nigeria's bilateral trade with the EU, Africa, USA and the rest of the world.

3.0 An Overview of the Africa-EU Partnership Cooperation

Lome Conventions I – IV (EU-ACP) and now EU-Africa partnership sets out the principles and objectives of the EU-ACP cooperation. The main characteristics are the partnership principle the contractual nature of the relationship, and the combination of aid, trade and political aspects, together with its long-term perspective (5 years for Lome I, II and III, and 10 years for Lome IV). Table 1 presents the summary of the bilateral relation prior to the new partnership agreement that is under review.

3.1. Characteristics/Features of the Five Generations of the EC-ACP Lome Conventions

The 5 generations of EC-ACP Lome Conventions represents world's largest financial and political framework for North-South cooperation. It is characterized by non-reciprocal trade benefits for ACP states including unlimited entry to the EC market for 99 per cent of industrial goods and many other products, especially for the LDCs. It also involved aid packages for each ACP country and region as well as dialogue and joint administration of its content by mutual negotiation between EC-ACP countries.

3.1.1. Trade Incentives of the EC-ACP Conventions

Table 1 presents a concise summary of the PTA indicating the trade and investment incentives by EU to support ACP countries, especially with regard to their capacity to meet RoO criteria. Among these were:

Special trading preferences and incentives for stimulating importation of bananas and sugar from ACPs - a lifeline for many small island Caribbean states. There were also incentives contained in the beef and veal protocol that permits a 90 per cent refund of tax normally paid on beef imports from several ACPs. This instrument benefited Southern African exporters especially Botswana.

Special European Development Fund (EDF) trade support schemes for coping with the primary commodity crisis in the international markets of ACP states. Two prominent programs were **STABEX** an acronym for the stabilization of export receipts on agricultural products. STABEX provided funds to offset losses on a wide number of agricultural products; cocoa, coffee, groundnuts, tea and others, as a result of crop failures and price falls. Related to STABEX was **SYSMIN** which was

TABLE: THE EC-ACP LOME CONVENTIONS PTA		
Convention	**Objectives & Targets**	**Fin Support**
Lome I Signed in 1975	**✓ the non-reciprocal preferences for most exports form ACP countries to EEC; ✓ equality between partners, respect for sovereignty, mutual interests and interdependence; ✓ the right of each state to determine its own policies; ✓ security of relations based on the achievements of the cooperation system. ✓ introduces the STABEX system (to compensate ACP countries for the shortfall in export earning due to fluctuation in the prices or supply of commodities).**	**fourth EDF (3 BECU)**
Lomé II Signed in 1979	**Does not introduce major changes, except for the SYSMIN system (help to the mining industry of those ACP countries strongly dependent on it).**	**fifth EDF (4.542 BECU)**
Lomé III Signed in 1984	**It shifts the main attention from the promotion of industrial development to self-reliant development on the basis of self-sufficiency and food security.**	**sixth EDF (7.440 BECU)**
Lomé IV This is the first Convention to cover a ten-year period with 2 financial protocol. A Mid-Term Review of the Convention is also scheduled for 1995	**Great emphasis is put on: the promotion of human rights, democracy and good governance; strengthening of the position of women; the protection of the environment; decentralized cooperation; diversification of ACP economies; the promotion of the private sector; and increasing regional cooperation.**	**The first financial protocol (1990 to 1995) provides 12 BECUS: 7th EDF 10.8 & the rest from EIB**
Revised Lomé IV The Mid-term review takes place in 1994-1995 due major changes in ACP countries (SAP & democratization) & in Europe (enlargement, increasing attention to East European and Mediterranean partners), and in the international environment (Uruguay Round Agreement)	**✓ The main amendments introduced are: ✓ the respect for human rights, democratic principles and the rule of law become essential elements of the Convention. This means that ACP countries that do not fulfill these criteria risk the retrieval of allocated funds; ✓ for the first time EDF is not increased in real terms; phased programming is introduced, with the aim of increasing flexibility and improving performances from ACP countries. more attention is given to decentralized cooperation in the form of participatory partnership including a great variety of actors from civil society.**	**The 2nd (1995-2000) 8th EDF funds (14.625 BECU).**

designed to provide loans to a country heavily dependent on a particular mineral and suffering export losses to lessen her dependency and vulnerability to external shocks arising there from. Also by the mid 1980s when African countries began the process of reforms, the EC included in the bilateral trade incentives certain provisions for **balance of payments facilities** subject to conditionality for access.

3.1.2. Trade incentives under the new EU-Africa Partnership Arrangement

The trade incentives of the new partnership agreements focus mainly on strengthening African countries to enhance intra-regional trade among them. Socio-economic and political integration is a key part of Africa's development strategy. The partnership provides a platform for the EU – which has a history of successful integration processes – to share its experiences with Africa. In this way, the Partnership helps advance African integration agendas, both at regional and pan-African levels.

The Partnership supports enhanced trade within Africa and on global markets, recognizing that trade is essential for development, economic growth and employment, and ultimately the eradication of poverty. To this end, the Partnership strengthens African capacities to meet rules, standards and quality requirements which are essential for sustainable access to international markets.

Infrastructure is vital for integration. Road and rail, ports, energy supply – these are just some of the infrastructure needed to enhance travel, transport and trade. For this reason the Partnership contributes to identifying, funding and implementing infrastructure projects across Africa. Enhanced trade and deeper regional integration are essential contributions to development, economic growth and employment, and, ultimately, the eradication of poverty. Efforts are being made, in particular to enhance African integration agendas, both at regional and Pan-African levels, to strengthen African capacities to comply with the rules, standards and quality requirements which are essential to enable effective access to regional and international markets and to help Africa build and maintain the infrastructure it needs for its development. Economic integration is a key part of Africa's development strategy and, as stated in the Treaty of Abuja, continental integration will be built on regional integration initiatives. African Regional Integration Organisations (RIOs) are therefore key actors in the integration process. As the EU has undergone a successful process of integration, it can share its experiences with Africa.

The ultimate goal of the new partnership is to support the integration of the continent in line with the Treaty establishing the African Economic Community (Abuja Treaty). This include the need to strengthen African capacities in all relevant areas, notably rules, standards, and quality control. This would be attained partly through an enhanced capacity of administrations, producers and exporters at all levels to meet the regulatory requirements of export markets within Africa and the EU, thus allowing diversification away from simple processed products; and partly to an enhanced competitiveness of African agriculture and agro-food industry through particular attention to Sanitary and Phyto-sanitary Standards (SPS).

- Implement the EU-Africa Infrastructure Partnership to provide improved and sustained African infrastructure and services.

Expected outcomes:

- An accelerated integration process with the participation of all stakeholders, including those in the informal sector along with enhanced African capacities to implement the integration agenda.
- Better coherence and convergence of the integration processes between the AU Commission and the RECs as well as clear synergies between African integration processes and the EPAs, the Euro-Mediterranean Partnership, and bilateral trade agreements.
- Better informed producers and exporters capable of complying with the rules and regulatory requirements of export markets supported by a sufficient

number of trained inspectors and customs officials to efficiently facilitate exports. In addition, the higher diversification of exports.

- A sufficient number of well-equipped and accredited laboratories – possibly to be shared among countries – for testing and certifying exports. Mutual recognition agreements on certain standards.
- A network to share information on market access, technical rules and regulations. Clear progress towards the elimination of intra-regional non-tariff barriers to trade.
- Enhanced continental and regional integration and trade through better interconnectivity. Improved infrastructure networks and services. Stronger African capacities in infrastructure management and policy development.
- Increased participation of the private sector in infrastructure development, including through Public-Private Partnership.
- Increased and sustainable investments in physical infrastructure as well as better management of shared water-course systems.

Achievements/Milestones

In the area of African integration the following achievements have been made:

- ➢ Regional Integration gained momentum with strong commitments taken by COMESA-EAC-SADC to align and harmonise their respective Integration Agendas through the Tri-partite process.
- ➢ The 3 regional programmes signed between African regions and EC for the period 2008-2013 represent €1.5 billion: Eastern and Southern Africa (€645m); West Africa (€598 m); SADC (€116 m), Central Africa (€165 m).
- ➢ The African Charter for Statistics was adopted in February 2009 by the Heads of State and Government of the AU. It provides a policy framework and an advocacy tool for statistics in Africa.
- ➢ On regional policies and cross-border cooperation, an AU Border Programme Regional Workshop took place in Ouagadougou on 23-24 April 2009 and similar workshops will take place in Libreville and Windhoek.

In the area of Infrastructure, the following achievements have been made:

- ❖ EC Vice-President responsible for transport participated in the Feb. 2009 AU Summit infrastructure debate. The engagement between the two continents through the Infrastructure and Energy Partnerships was highlighted in the Summit Declaration. This enhanced engagement will be supported by some €3 billion (10th EDF NIPs).
- ❖ With respect to the Infrastructure Trust Fund, financial contributions from the EDF and 13 EU Member States amount to €165 m in the form of grants; an additional €200 m will be available under the intra-ACP funds. Since it became operational, the Trust Fund has agreed to support 12 regional projects for total grants of €77 m, leveraging a total project financing around €1 bn
- ❖ The AU Commissioner for Rural Economy and Agriculture and the European Commissioner for Health launched a high-level conference on the harmonization of sanitary and phyto-sanitary (SPS) measures. The conference was preceded by a four day training course for African experts on "Better Training for Safer Food Africa". Training activities for small and medium enterprises (SMEs) is now being implemented in Africa with a total budget of around €10 m (until the end of 2010).

Future challenges

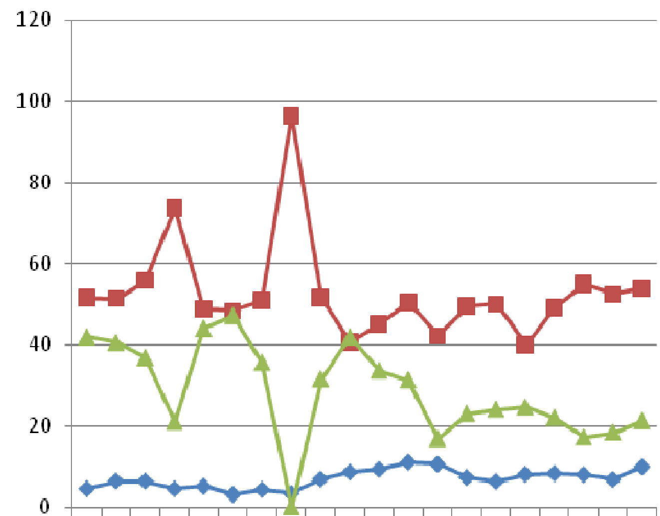
- ✓ To broaden and deepen ownership of the partnership, both in the EU and among African countries, regions and organisations.
- ✓ To establish a dedicated implementation process for identifying a project pipeline of concrete, 'bankable' infrastructure initiatives in the field of trans-African networks, to mobilise private sector funding support, and to begin implementing pipeline projects.
- ✓ To develop transport infrastructure, including Trans-African highways and multimodal transport projects linking ports, airports and regions.
- ✓ Identify opportunities for cross-sectoral synergies and infrastructure sharing between transport, ICT communications and energy networks.

4.0 Trends and Pattern of International Trade under Africa-EU Partnership

4.1. EC-ACP trade and Economic Performance

Data available from EC ahead of the 1998 talks on a new agreement show that the ACP countries' share of the EU market had declined from 6.7 per cent in 1976 to 3 per cent in 1998 with 60 per cent of total exports concentrated in only 10 products, with just a handful of nations registering economic growth as a result of the trade protocols and preferences notably; Ivory Coast, Mauritius, Zimbabwe and Jamaica.

Fig. 4: Africa, America & Europe Share of Nigerian Total Trade 1987-2006



	87	88	89	90	91	92	93	94	95	96	97	98	99	00	01	02	03	04	05	06
Africa	4.6	6.5	6.5	4.6	5.2	3.2	4.4	3.4	7	8.7	9.4	11.	10.	7.4	6.4	8.2	8.4	8.1	6.9	10
America	51.	51.	55.	73.	49	48.	51.	96.	51.	40.	45.	50.	42.	49.	50.	40.	49.	55.	52.	54.
Europe	41.	40.	36.	21	44	47.	35.	0	31.	41.	33.	31.	16.	23	24.	24.	22	17.	18.	21.

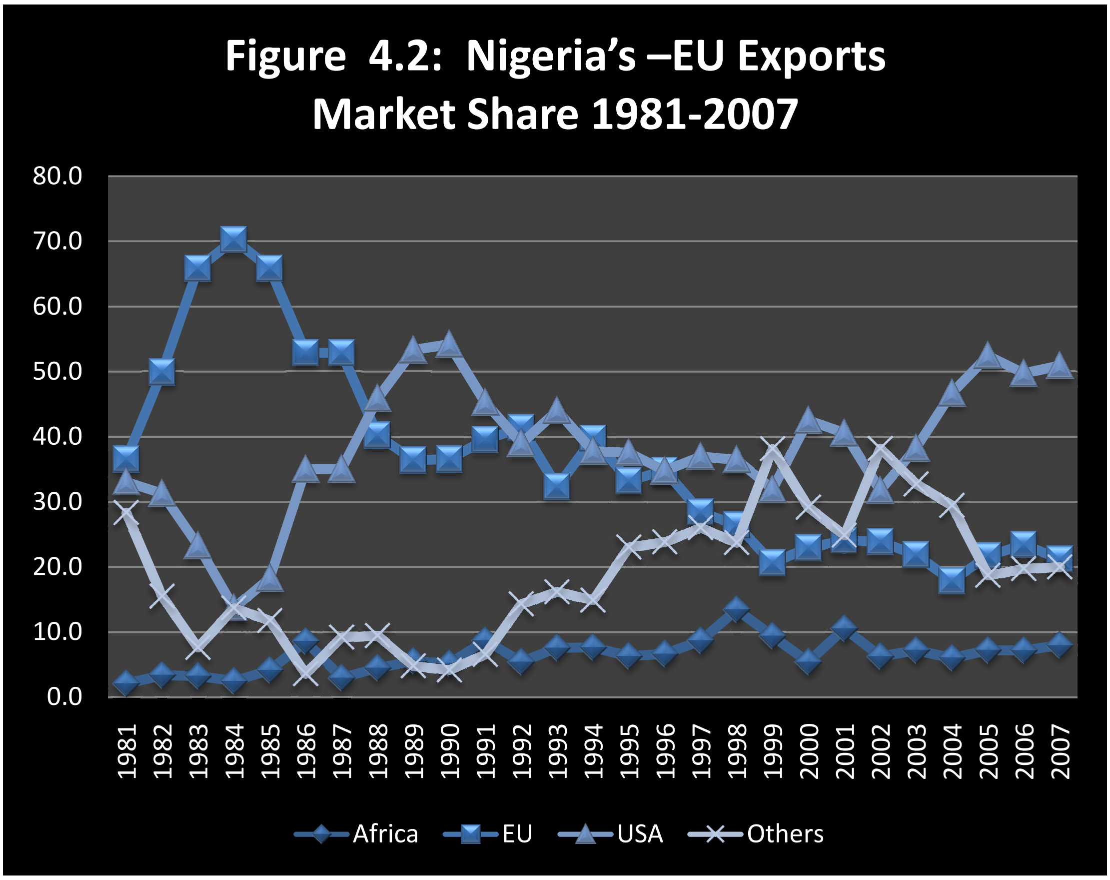
Per capita GDP in sub-Saharan Africa grew by an average of only 0.4 per cent per annum 1960-1992, compared with 2.3 per cent for developing countries as a whole. Only 6 per cent of African trade was with other countries of the continent.

4.2. Nigeria-EU International Trade

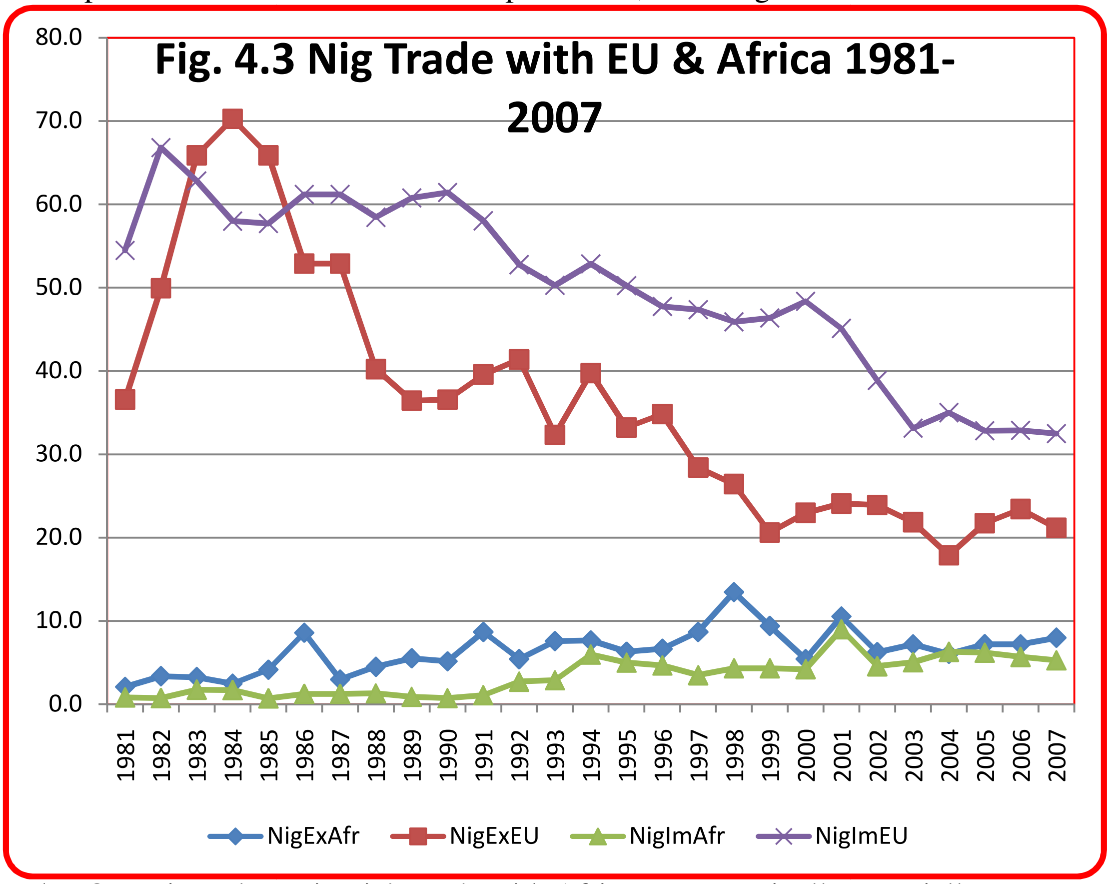
There has been progressive deterioration in trade flows between Nigeria and EU, from a peak of 66% in the early 1980s to 20-25 in 2007.

4.3. Nigeria-EU's Export performance

Despite the PTA, EU share of Nigeria exports declined consistently from a peak of 70% in 1984 to 21.2% by 2007, while her export trade with others and USA has been on the increase. At the same time, Nigeria's trade with the rest of Africa has recorded marginal increases but remains at about 6% of her total trade.

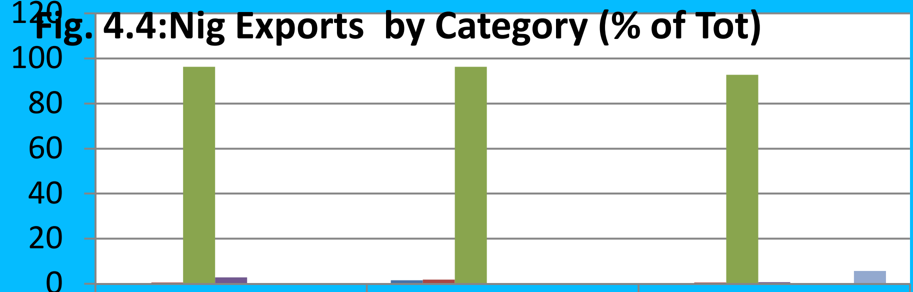


Despite the bilateral and diagonal cumulation of EU-ACP PTA, Nigeria's share of EU exports declined while that of imports rose, resulting in unfavorable terms of



trade. Over time also, Nigeria's trade with Africa rose marginally especially exports.

Fig. 4.4:Nig Exports by Category (% of Tot)



	1987	1996	2006
F&Bev	0.1	1.5	0.1
Ind. Sup	0.5	1.8	0.5
Fu&Lub	96.3	96.3	92.7
Cap goods	2.8	0.1	0.6
TransEquit	0	0.1	0.2
Consum G	0	0.1	0.2
Others	0.3	0.1	5.7

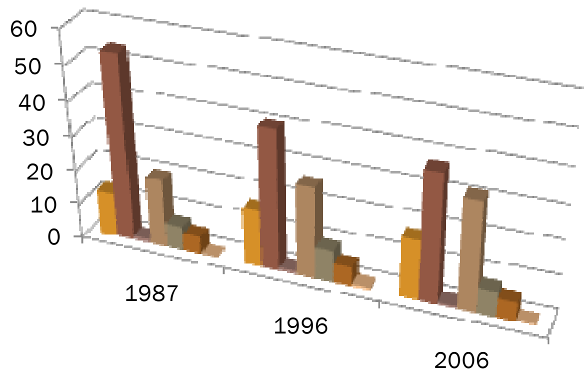
The analysis of the composition and structure of Nigeria exports is as shown in Figure 4.4. It is apparent that the EU-Africa PTA did not alter the structure of Nigerian exports. The dominant export is crude oil and it accounts for 96% in 1987 &1996. It is worthy to note that since the commencement of the United States African Growth and Opportunity Act (AGOA) that there appear to be marginal increase in non-oil exports of Nigeria.

Fig 4.5 shows Nigeria's imports by category. Although the share of industrial supplies exhibited declining trends, food imports rose over time.

Given the dominance of North America & Asia as origin of Nigeria's import trade, they may be the major suppliers

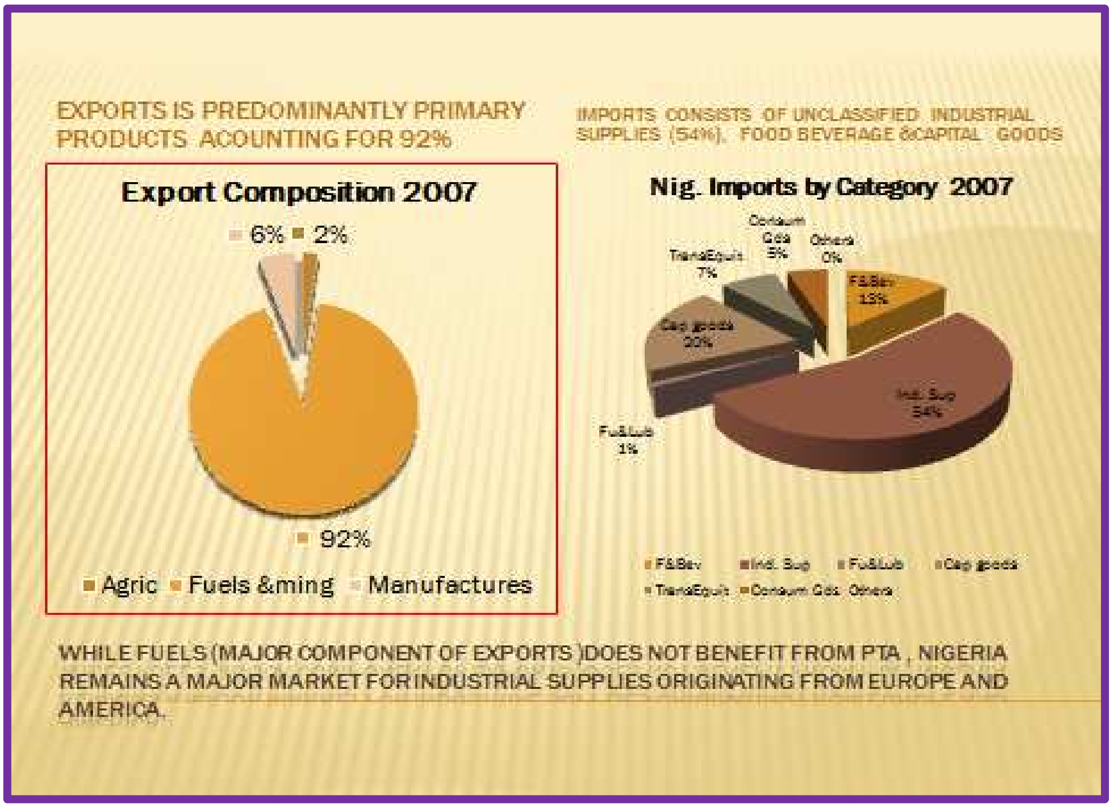
While fuels (major component of exports) does not benefit from

Fig. 4.5: Nig. Imports by Category 1987-2006



	1987	1996	2006
F&Bev	13	16.6	17.4
Ind. Sup	54	40.7	37.3
Fu&Lub	1	0.9	0.6
Cap goods	20	26.5	31.7
TransEquit	7	9.2	7.4
Consum Gds	5	5.5	5.4
Others	0	0.6	0.2

Preferential Trade Concessions, Nigeria remains a major market for industrial



supplies originating from Europe and America. While exports is predominantly primary products acounting for 92%, imports consists of unclassified industrial supplies (54%), Food, Beverage &capital goods.

4.4. Overall impact assessment

The analysis of available information so far show that rules of origin have had limited impact on Nigeria's exports trade with the EU since her major exports (crude oil) does not benefit from such rules. However, the increase in intermediate imports from EU suggests trade creation (a disproportionate benefit) in favour of EU. This analysis also shows that the rising trend in trade within Africa could be the result of bilateral cumulation generated by intra-Africa free trade agreements and regional economic integration efforts. In particular, within ECOWAS, there exist free trade agreements which has grown into a common market, as there is a protocol of free movements of persons, goods and capital.

The increase in trade with USA and others may be the result of trade reorientation with switching from EU to other cheaper partner countries for the imports of consumer goods.

5.0 Challenges to Rules Of Origin Usefulness

5.1. The growing challenge to RoO includes:

- global reduction in custom-duties & non-tariff barriers under GATT & WTO
- Multiplication of PTAs which highlights possible distortions
- Undue emphasis on technical determination rather than usefulness

- Changing pattern of multinational production such as ‘Fragmentations’, vertical specialization, or outsourcing
- Changing focus of the objectives of Africa-EU partnership principles from PTA to regional support

5.2. Trade implications of the new EU-Africa partnership without rule of origin

Current partnership agreements aligned more with WTO rules which considered earlier EU-ACP non-reciprocal trade preference as discriminatory against partners outside the trading block. It therefore lacks:

- Clear-cut provisions for tariff waivers in favour of goods originating from Africa
- Compensation to African countries for loss of revenues arising from deterioration in primary commodity markets, despite its dominance in their export baskets.

5.3. Implication of Lessons from African Growth and Opportunity Act (AGOA)

Can EU learn from USA’s AGOA in changing the course of trade relations between her and Africa?

AGOA made provisions for:

- reinforcing African reform efforts;
- providing improved access to U.S. technical expertise, credit, and markets;
- establishing a high-level dialogue on trade and investment.
- AGOA expands the list of products which eligible Sub-Saharan African countries may export to the United States subject to zero import duty under the Generalized System of Preferences (GSP). While general GSP covers approximately 4,600 items, AGOA GSP applies to more than 6,400 items. AGOA GSP provisions are in effect until September 30, 2015.

5.4. Implicit RoO Issues in AGOA Worthy of Emulation

Among the most important implementation issues of AGOA that are RoO related are the following:

- Determination of country eligibility;
- Determination of the products eligible for zero tariff under expansion of the Generalized System of Preferences (GSP);
- Determinations of compliance with the conditions for apparel benefits;
- Establishment of the U.S.-Sub-Saharan Africa Trade and Economic Forum; and
- Provisions for technical assistance to help countries qualify for benefits

5.5. Concluding remark

RoO and its cumulation can materially impact on trends and pattern of trade. Perhaps the rising trend in Nigeria-USA trade can be traced to AGOA. For a mutually beneficial partnership, the EU must go beyond the WTO GSP and AGOA to give preferential treatment to goods originating from Africa. Thank you for your attention.

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