



## WTO Reform: A Number of Perspectives. Is there an African Perspective?

Remarks by

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**Sir Michael Rake, Chairman, ICC United Kingdom**

**Chris Southworth, Secretary General, ICC United Kingdom**

**Members of the Board of the UK International Chambers of Commerce**

**Friends,**

**Ladies and Gentlemen**

Good evening and thank you for the invitation to this Annual Dinner of the United Kingdom (UK) International Chamber of Commerce (ICC).

*I accepted this invitation to dinner, as a Representative of the Federal Government of Nigeria. I am also here as a mechanic for trade multilateralism and a servant of international cooperation for business.*

The absence of agreed rules for trade, or a breakdown in the rules-based global economy, is a recipe for conflict in trading relations, disorder, geopolitical tensions and reduced growth. It is situation that no one should want, least of all business.

This is a moment of crisis, challenge, but also of opportunity for the WTO. In this period and beyond, there is a role for UK business leaders and Government Representatives to support the WTO. Thank you for organizing this gathering.

London remains the center for financial services in the global economy. The UK remains a leader in business, innovation, research and development. UK Value Chains stretch across the global economy. These leadership roles count as the WTO navigates a period of rapid and uncertain change in the global economy.

This is why, I am honoured to be here with you to exchange ideas across a range of issues:

- WTO Reform, Modernization and Opportunities for Business Engagement;
- Trade Development Expectations and Priorities – Different Perspectives;
- African Continental Free Trade Area – What does it offer?
- the 21<sup>st</sup> Century Digital Trade Agenda; and,
- Nigeria in Africa.

## I. WTO Reform, Modernization and Business Engagement

- Understanding the context is important. In the period since 1945, this is a moment of challenge and crisis, like no other, in the rules-based global economy. Although there are different perspectives and varying interpretations of the meaning and significance of current developments, there is acknowledgement of the self-evident reality that faces policy-makers, the business community and the range of stakeholders. All is not well. **What are the pressures that have led to the current crisis faced by the WTO?**
- Multilateral institutions, like the WTO, are being tested like never before. Although the fundamentals of the WTO remain sound, it is an organization under pressure and navigating headwinds and a crisis due to a range of factors that have accumulated over time.
  - **1. Dispute Settlement System:** The dispute settlement system is the central pillar of the rules-based system of balance of rights and obligations. But, the appointment of Appellate Body (AB) Members is blocked. The AB currently is down to 3 Members and cannot operate below this number. If the situation is not resolved, before December 2019, the AB would cease to function, hence the dispute settlement system. No rules-based trading order can function without an accepted and viable system of dispute settlement. This is a priority of priorities.
  - **2. Negotiating / Legislative function:** The rule-making function – is weak and impaired. To the credit of the rules-based system and the membership, a number of agreements have been delivered in the recent past, as you will know. These are the Trade Facilitation Agreement (TFA); Information Technology Agreement II (ITA-II); LDCs' support package; abolition of export subsidies in agriculture; and, the procedure for addressing public stockholding for food security. However, trade rules require updates. There are gaps to be filled in a number of critical areas so that the WTO is adapted, updated and fit for the 21<sup>st</sup> Century.
  - **3. Implementation:** Systemic challenges exist, related to the implementation of rules, the monitoring of Members' trade policies, delayed notifications, transparency versus the opacity of measures.
  - **4. Intellectual Property Rights and Technology Transfer:** Concerns by Members regarding forced technology transfers and the vital importance

of protecting intellectual property rights and that joint venture obligations are not pre-set and pre-conditional to market entry.

- **5. State Owned Enterprises, Non-Market Economies and the Market Economy:** Concerns with the nature of the interaction of different economic regimes. Concerns with the operation of State Trading Enterprises and distortions in the context of the market economy.
- **6. Trade Distorting Subsidization, Gaps in the Rules and Trade Remedies:** Members consider that a pressing issue is trade distorting subsidization, with obvious gaps in the rules to deal with these distortions. While some emphasize industrial subsidies with consequences for over-capacity in the sectors of steel and aluminum, others point to agriculture subsidies and development effects, while all emphasize the necessity to reduce fishery subsidies that have effects for fish stocks.
- **7. Development Dimension of the Trading System:** Members agree on the centrality of development in the rules-based trading system, but are faced with a development conundrum. The conundrum revolves around the concept and practice of differentiation amongst Members in a rules- and contract-based system, with a balance of rights and obligations and, an enforceable dispute settlement system. How can Special and Differential Treatment (SDT) flexibilities, based on differentiation of the membership, be granted in a contract-based balance of rights and obligations, so that the flexibilities reflect reality, do not create uncertainty over negotiated outcomes and, neither trigger a moral hazard nor a perverse system of incentives?
- **8. Decision-making:** Although consensus decision-making is the ideal, reaching decisions by consensus of the entire membership is increasingly problematic. There are blocking coalitions (of majorities and minorities).
- **9. Trade Tensions:** There are trade tensions amongst major economies, reflected in the application of tariff sanctions on steel and aluminum, with risk of escalation and application to automobiles and other sectors. The relationship between the two major economic powers is of major concern for all.
- **10. Protectionism:** In the wider global economy, monitored data point to resurgent protectionism. The global economy is affected with economic

nationalism, populism (on the left and the right), anti-globalization currents and geopolitical tensions.

- o **11. Technology:** There are major technological changes underway with impacts for labour and business.
- o **12. Stakeholders and the Domestic Political Economy:** Domestically, stakeholders are more assertive, demanding greater involvement in policy conduct and management. In a number of developing countries, in Africa, poverty, inequality and insecurity have led to assessments and concerns of an unjust order and that the benefits of trade are not evenly distributed, and that existing rules are inequitable and do not reflect a just balance of rights and obligations.
- All these factors need to be taken together. They have accumulated over time. There is no singular responsibility, either by factor or by an individual member.
- These factors, in combination, have generated pressures for reform and modernization of the WTO. Policy makers and business must work together to avoid the perfect storm. Leadership is required.
- ***What is the response, so far and What is the likeliest outcome?*** Currently, there are 4 reform tracks.
  - o Trilateral Track: European Union (EU), Japan and the United States (US).
  - o EU and China Working Group on WTO Reforms.
  - o Ottawa Ministerial Process on WTO Reform
  - o France (EU) Conference – “A WTO fit for the 21<sup>st</sup> Century” – What Needs to Change.
- At this time, the objective is to channel the substantive results from these tracks into the G20 (from Argentina to Japan) and the G7 processes. There may be more processes, as time goes by.
- On the current reform tracks, substantively, the exchanges from the 4 current processes point to the contours and scope for reforms as follows:
  - o DSU/AB Reform.
  - o Updated rules are required / New rules to close current gaps.

- Updated trade remedies to address market distortions and injurious trade practices, from the use of trade distorting subsidies (industrial, agriculture and fishery sectors).
- Sectoral Areas of priority and concerns (steel, aluminium, automobiles, fishery, agriculture).
- Ground Rules for State Owned Enterprises (State Aid).
- IPRs protection / forced technology transfers.
- Notification and transparency.
- Development Dimensions of the rules-based multilateral trading system.
- Non-Discriminatory Plurilateral Agreements in an updated WTO for ecommerce/digital economy; Investment; MSMEs, economic empowerment of women.
- WTO Decision-making.
- Implementation and compliance with WTO Rules.
- Updated shared rules: level playing field, reciprocity, openness.
- At this stage, there isn't a singular and coordinated African perspective on WTO reform. At this stage, individual African countries are contributing. Kenya is part of the Canadian process. Nigeria was invited to participate in the conference in France. South Africa is a Member of the G20 and obviously will engage in whatever submissions or recommendations are channeled through the G20.
- More, broadly, across the board, there are three positions. First, strong support by most for WTO modernization, who consider that the current situation is unsustainable and reform is overdue. Second, a perspective by a number who consider that WTO modernization and reform should work for all systemically, and not be used to target and constrain the development of some. Third, some that consider that the focus should be on preserving what currently exists.
- Managing the relationship amongst the diversity of the membership will be a major challenge for the WTO. Clearly, however, WTO reform and modernization are overdue and an urgent necessity. It cannot be put off any longer.

### a. Opportunities for Business Engagement

- Opportunities for business engagement is a cross-cutting issue. Never have multilateral institutions been in more dire need of private sector engagement than at this moment in time. Business engages during the WTO Public Forum. But the engagement needs to be deeper and permanent. A number of avenues would be useful in contributing, such as through Op Eds, from individual businesses, and collectively, through ICC; direct contacts with Members. The objective would be to clearly express commercial interests in specific areas that have direct relevance for growth, job creation, construction of value chains. A number of areas are currently relevant such as:
  - Digital economy / ecommerce;
  - Investment facilitation;
  - Micro- Small and Medium Enterprises;
  - Empowerment of Women in international trade;
  - Trade and investment measures that enhance the environment and promote sustainable development;
  - Agriculture and Food security.
- A modernized and reformed WTO would be a more pro-business WTO, where deals should get done, expeditiously, contribute to growth, wealth and job creation in the global economy and a more sustainable and healthier global environment.

## II. Trade Development Expectations and Priorities – Different Perspectives

- There are several ways in which business could assist with supporting trade development priorities:
  - Business Dialogue with individual developing countries on the twin issues of their priorities, on the one hand, and on the other, the vital importance of an Enabling Environment for Business.
  - Training and capacity-building workshops, internships, etc.
  - Support for micro- small and medium enterprises.
  - Female empowerment in international trade.

- o Underlining the importance of rules and a balance of rights and obligations.

### III. Agreement Establishing the African Continental Free Trade Area (AfCFTA)

- The AfCFTA is a huge opportunity for Africa, in a rapidly changing global economy. It was signed in Kigali, Rwanda, on 21 March 2018. Currently, it has been signed by 49 of the 55 Members of the African Union (AU). Twelve of the Signatories have ratified: 7 have signed and deposited their Instruments of Acceptance: Ghana, Kenya, Rwanda, Eswatini, Guinea, Niger and Chad. Five (5) have ratified and are preparing their Instruments of Acceptance to be deposited: South Africa, Uganda, Sierra Leone, Côte d'Ivoire and Mali.
- When in effect, it will emerge as the largest trade bloc in the global economy since the 1995 WTO establishment; encompassing 1.2 billion Africans and a GDP of more than US\$3 trillion, in 2018. It is designed to function as a rules-based system for the governance of intra-African trade, with a balance of rights and obligations, enforceable under the “Protocol on Rules and Procedures on the Settlement of Disputes”.
- The AfCFTA will establish a strategic, economic and legal order in intra-African trade relations and serve as a foundation for Africa's further integration into the global economy.
- AfCFTA provides an opportunity for engagement by business. Currently, schedules for tariff concessions for Trade in Goods and Specific Commitments for Trade in Services are being drawn-up. Engage with African countries to seek tariff concessions and services commitments that would foster business, facilitate trade and investment and build value chains.
- In the recent book, “Africa’s Business Revolution: How to Succeed in the World’s Next Big Growth Frontier”<sup>1</sup>, reviewed in the McKinsey Quarterly<sup>2</sup>, the authors note that, “*Global business leaders who misunderstand Africa run the risk of missing out on one of the 21st century’s great growth opportunities*”.
- One of the clearly identified areas of growth is mobile financial services. As the authors of the book note, “There are already 122 million active users of mobile financial services in Africa. The number of smartphone connections is forecast to double from 315 million in 2015 to 636 million in 2022—twice the projected

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<sup>1</sup> Acha Leke, Mutsa Chironga and Georges Devaux, Africa’s Business Revolution: How to succeed in the World’s Next Big Growth Frontier, Harvard Business Review Press, 2018.

<sup>2</sup> <https://www.mckinsey.com/featured-insights/middle-east-and-africa/africas-business-revolution>;

number in North America and not far from the total in Europe. Over the same period, mobile data traffic across Africa is expected to increase sevenfold”.

- The current population of Africa will more than double by 2050, with a country like Nigeria, having a population estimated to be the third largest in the world behind China and India. The Continent’s median population will be very young.

#### IV. The Digital Trade Agenda

- Talk the dinner guests through the opportunities at the WTO - including on digital trade and where business engagement might add most value.

#### V. Nigeria in Africa

- A Leader in the African Union.
- Current Chairperson of ECOWAS.
- Participant and contributor to on-going exchanges on WTO reform and modernization.
- Largest economy in Africa, with a number of frontline industries. Fifty-four per cent of GDP is accounted for by services. Major efforts by Government at diversification of the economy. For instances, Government has signaled that in 2019, mobile money licenses will be granted to telephone companies.
- Recent successes registered with measures on the Ease of Doing Business.
- Improvements in competitiveness as measured by the World Economic Forum.

#### VI. Conclusion:

- Let me conclude on two notes:
  - **First**, WTO reform is an urgent necessity and a priority and there is strong role for business. Engage. It is important that the results produce a systemic win and win for Members. WTO reform and modernization can no longer be delayed.

- o A key aspect of WTO is the digital trade agenda. It matters for individual Members like Nigeria for job creation, youth employment, modernization and diversification of the economy.
- o **Finally**, on 3<sup>rd</sup> of October last month, in Geneva, during the Public Forum, the “*Nigerian Office for Trade Negotiations*” (NOTN) and the “*Digital Trade Network*” (DTN) Established a “**Digital Trade Partnership**”. The purpose of the Partnership, as specified is to:
  - use digital technology to foster the ability of micro, small and medium sized businesses (MSMEs) to increase their share in national economic life and their export potential;
- o Identify national policies can leverage digital entrepreneurship to reach Nigeria’s objectives in sustainable development particularly for young people and remote rural and underserved urban communities, in areas such as:
- o increase financial inclusion by leveraging mobile financial services for the 50% of Nigerians that currently are not bankable;
- o identify measures to accelerate the reduction of the “digital divide” that affects approximately 75% of Nigerians;
- o boost the capacity and trust of SMEs selling online within Nigeria, and exporting from Nigeria, given the country’s already vibrant online commerce market; and,
- o foster investment in youth and job creation that leverages the digital economy.
- I ask that you come and work with Nigeria in moving the digital trade agenda forward for the purpose of job creation, growth, youth engagement and continued modernization of the Nigerian economy.

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## Annex I: Ottawa Communiqué

### **Joint Communiqué of the Ottawa Ministerial on WTO Reform**

**Statement: <https://www.canada.ca/en/global-affairs/news/2018/10/joint-communicue-of-the-ottawa-ministerial-on-wto-reform.html>;**

We, Ministers and Heads of Delegation representing a group of like-minded World Trade Organization (WTO) members<sup>Footnote 1</sup>, met in Ottawa, October 24-25, chaired by the Honourable Jim Carr, Canada's Minister of International Trade Diversification, to discuss ways to strengthen and modernize the WTO.

We reaffirm our clear and strong support for the rules-based multilateral trading system and stress the indispensable role that the WTO plays in facilitating and safeguarding trade. That system marked the beginning of an unparalleled chapter in global prosperity, growth, and job creation around the world, though the benefits from trade have not always been evenly distributed. We are deeply concerned by recent developments in international trade, particularly the rise in protectionism, which negatively affect the WTO and put the entire multilateral trading system at risk. We note growing trade tensions are linked to major shifts in the global trading landscape. We also note the difficulties to achieve outcomes under the negotiating pillar. We share a common resolve for rapid and concerted action to address these unprecedented challenges and to restore confidence. In this regard, we have identified three areas requiring urgent consideration.

First, we underscore the dispute settlement system as a central pillar of the WTO. An effective dispute settlement system preserves the rights and obligations of WTO members, and ensures that the rules are enforceable. Such a system is also essential in building confidence amongst members in the negotiating pillar. We are deeply concerned that continued vacancies in the Appellate Body present a risk to the WTO system as a whole. We therefore emphasize the urgent need to unblock the appointment of Appellate Body members. We acknowledge that concerns have been raised about the functioning of the dispute settlement system and are ready to work on solutions, while preserving the essential features of the system and of its Appellate Body. For this purpose, our officials will continue to engage in discussions to advance ideas to safeguard and strengthen the dispute settlement system.

Second, we must reinvigorate the negotiating function of the WTO. We need to conclude negotiations on fisheries subsidies in 2019 consistent with instructions from WTO Ministers at MC11. Its rules must also be updated to reflect 21st century realities, such as the Sustainable Development Goals. Addressing modern economic and trade issues, and tackling pending and unfinished business is key to ensuring the relevance of the WTO. This may require flexible and open negotiating approaches toward multilateral outcomes. We welcome in this regard the work that is being undertaken through the

Joint Statement Initiatives from MC11. We recognize the need to address market distortions caused by subsidies and other instruments.

Development must remain an integral part of our work. We need to explore how the development dimension, including special and differential treatment, can be best pursued in rule-making efforts. Our officials will examine and develop concrete options for engagement to reinvigorate the negotiating function.

Third, we should strengthen the monitoring and transparency of members' trade policies which play a central role in ensuring WTO members understand the policy actions taken by their partners in a timely manner. We are concerned with the overall record of compliance by WTO members with their notification obligations and we agree that improvements are required to ensure effective transparency and functioning of the relevant agreements. Specific improvements in this area can be achieved in the near term. Our officials will engage on concrete ideas put forward in this area.

We seek a fully operational WTO that benefits all. Our objectives outlined above will only be reached through sustained and meaningful political engagement and through dialogue with all WTO members. In this regard, we note with appreciation other ongoing efforts by WTO members or groups of WTO members, in particular recent proposals by participants in this group on dispute settlement, as well as transparency and notifications. We affirm our intention to work constructively and collaboratively on these and other proposals.

The current situation at the WTO is no longer sustainable. Our resolve for change must be matched with action: we will continue to fight protectionism; and we are committed politically to moving forward urgently on transparency, dispute settlement and developing 21st century trade rules at the WTO. We look forward to reviewing our progress when we meet again in January 2019.

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## Annex II: “Nigerian Office for Trade Negotiations” (NOTN) and the “Digital Trade Network” (DTN) Establish “Digital Trade Partnership”, 3 October 2018

### **NOTN and DTN Partner to Boost Nigeria’s Digital Economy**

The Nigerian Office for Trade Negotiations, Federal Ministry of Industry, Trade and Investment of the Government of Nigeria and the Digital Trade Network today announced that the Ministry has asked the Network to collaborate with it as it seeks to increase its capacity to foster Nigeria’s participation in the digital economy both nationally and internationally.

Initially the collaboration is expected to explore areas such as:

- How digital technology can foster the ability of micro, small and medium sized businesses (MSMEs) to increase their share in national economic life and their export potential;
- What national policies can leverage digital entrepreneurship to reach Nigeria’s objectives in sustainable development particularly for young people and remote rural and underserved urban communities, in areas such as:
  - Increasing financial inclusion by leveraging mobile financial services for the 50% of Nigerians that currently are not bankable;
  - Accelerating reduction of the “digital divide” that affects approximately 75% of Nigerians;
  - Boosting the capacity and trust of SMEs selling online within Nigeria, and exporting from Nigeria, given the country’s already vibrant online commerce market;
  - Fostering investment in youth and job creation that leverages the digital economy

Ambassador Chiedu Osakwe, Chief Trade Negotiator of Nigeria: *“As Africa’s largest economy with a rapidly growing services sector, we know that a focus on a digital Nigeria is a choice for the future, and that the regulatory and trade rules we adopt to do that have an important role to play. We look forward to working with the Digital Trade Network and its global private sector network to take the best ideas from around the world to move us forward, faster.”*

Nick Ashton-Hart, Geneva Representative of the Digital Trade Network: *“DTN is really honoured to work with Nigeria as it continues to lead from the front of African states leveraging digital technologies to create a better life for its people.”*

The Nigerian Office for Trade Negotiations is mandated to lead Nigeria's trade negotiations and to ensure that the results of Nigeria's trade negotiations contribute to the growth and modernization of the Nigerian economy and job creation.

The Digital Trade Network is a global network of business associations and companies dedicated to helping the world trade community better understand how to apply digital technologies for sustainable economic development. It is the private sector voice dedicated to the Geneva diplomatic community for digital trade policy.

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