

THE POLITICAL AND LEGAL IMPLICATIONS OF NIGERIA LAND BORDER CLOSURE AND BIG BROTHER ROLE IN AFRICA *

Abstract

Nigeria has for long enjoyed good diplomatic, economic, political, security and social relationship with her immediate neighbouring countries like Chad, Benin, Cameroon and Niger and has always maintained a big brother status over its neighbours. Owing to insecurity, smuggling and criminal activities, the Nigerian government ordered the immediate closure of her land borders with the neighbouring countries on August 19, 2019, disallowing movement of in and out of goods and services via the land borders. The closure seemed to be straining Nigeria's relations with her neighbours and has been met with strong oppositions by the neighbours casting a shadow over the newly enacted ECOWAS free trade agreement, which seeks to scrap restrictions on trade among African Countries. The paper aimed to appraise diplomacy and diplomatic relationship of Nigeria with her closed countries. It gave reasons for the emergence of African Continental Free Trade Agreement (AfCFTA) and World Trade Organisation (WTO). The paper adopts a doctrinal research methodology and employed the use of newspapers, monographs, unpublished works, statutes, treaties, conventions, textbooks, journals, articles and internet among others were consulted in arriving at its target. The paper exposed and enumerated the merits and demerits of the Nigeria land border closure with her neighbouring countries. It also analysed the short and long-term implications of the land border closure on Nigeria's relations with her neighbours. It recommends that Nigeria should strengthen her internal institutions, social fabrics and, and stabilize her borders, to make Nigeria's economy better for her citizens and the country at large. There should be a well-organized alignment and coordination at a regional level (i.e. at the West African sub-regional level); to control a border from only one side is virtually impossible. Therefore, Nigeria's diplomatic relations and foreign policy towards her immediate neighbours needs to be geared towards ensuring the borders are closely policed.

Keywords: 'Diplomacy', 'Diplomatic Relations', 'Conventions' Immediate' 'Foreign Policy'.

Introduction

Countries cannot operate in isolation, hence in fostering their economic growth and development, perpetrate their national interests and develop their political structures, at the same time protect their territorial integrity and security concerns; they often enter into diplomatic relations with one another. Nigeria has for long maintained close diplomatic relations with her immediate neighbours namely Chad, Benin, Cameroon and Niger Republics. As part of these long relations, goods and services have for long moved freely to and fro Nigeria's land borders. Due to insecurity, smuggling and criminal activities, the Nigerian government ordered an immediate halt of the movement of goods and services through her land borders on August 19, 2019, a move that has been infamously tagged - land border closure, stating that its economy needed to be protected. Many other neighbouring countries and individuals have criticized this decision. Nigerian government through its agencies continues to praise the decision as the solution the country needs to improve her weakening economy and security challenges.

* **OMODELE, ADEYEMI O.** LLB (Hons Ado-Ekiti), BL, LLM (Ife) is a PhD Student (Law & Diplomacy), Department of Political Science & Public Administration, Babcock University, Nigeria. His Tel e-mail address is yemiomodelaws@yahoo.com

OMODELE: *The Political and Legal Implications of Nigeria Land Border Closure and Big Brother Role in Africa*

Borderclosure seems to be straining Nigeria's relationship with her neighbours who keep expressing strong opposition to the continued land border closure. The closure as a whole, is casting a shadow over the ECOWAS free trade agreement¹ and very recent African Continental Free Trade Agreement (AfCFTA).² The ECOWAS free trade agreement seeks to scrap restrictions on trade relation among African countries. Nigeria is a signatory to both agreements and the recent border closure places a mark on Nigeria's commitment towards maintaining cordial relations with other African nations especially in terms of trade intercourse. In September 2019, the ECOWAS speaker of parliament Cisse Lo released a statement urging the Nigerian government to comply with ECOWAS provisions by reopening the borders as the closure is a hindrance to the achievement of the community's objective of a prosperous, borderless and peaceful West African region.³ The speaker advised that the Nigerian government should set up border trade and find a lasting solution in fighting cross border crime and smuggling.⁴

The land border closure has adverse effects on the Nigeria's international relations and international law with the affected neighbouring countries as this may result to pulling out of the signed legal documents. There cannot be economic and political stability in Nigeria without legal backings, which international relations and international law encourage. Reopening of the borders will foster and glue the legal relationship between Nigeria and the neighbouring countries. The land borders in Nigeria are: Benin - Nigeria border; Cameroon - Nigeria border; Chad - Nigeria border; Equatorial Guinea - Nigeria border; Niger - Nigeria border and Nigeria - Sao-Tome and Principe border.

The Concepts of Diplomacy and Diplomatic Relations in Terms of Land Border Closure

Diplomacy is as old as civilization and has been used by nations and States through recorded history to perpetrate their relations with other nations; establish lasting trade interactions and ensure peaceful coexistence in the comity of nations.⁵ It is a means by which States throughout the world conduct their affairs in ways to ensure peaceful co-existence. Diplomacy is the implementation of grace and intelligence in conducting official relations between independent State governments and establishing relationship even with certain vassal States.⁶ It is conducted by negotiation rather than by force, propaganda, or recourse to law, and by other peaceful means to build existing relations.⁷

It is enacted through various tools such as political, security, commercial, cultural and consular tools and is used by nations to establish and maintain communication with one another in today's world. The modern understanding of diplomacy accepts it as a tool used in carrying out relations among essentially sovereign states,⁸ and can be used to ensure that States establish regular and diverse relations with one another and it is actually the name of the communication system of international society.⁹

¹ ECOWAS Free Trade Agreement was initially signed by the Heads of States and Governments of the then 16 Member States in 1975, in Lagos, Nigeria. Following new developments and mandates for the community, a revised treaty was signed in Cotonou, Benin Republic in July, 1993.

²Rodl & Partner, 'Border Closure: Christmas Rice or Spaghetti', (November, 2019). Retrieved from www.wforoedl.com/images/publications/Border_Closure-Christmas_Rice_or_Spaghetti.pdf. This treaty was signed on March 21, 2019 in Kigali, became effective on May 30, 2019 with 44 nations as its original signatories as at July 2019, the number had increased to 54.

³ *ibid*

⁴ *ibid*

⁵ Swiss Federal Department of Foreign Relations (FDFA), 'The ABC of Diplomacy', *Bern* (2008), p. 3-5.

⁶ I B Neumann, 'The Body of The Diplomat', *European Journal of International Relations*,14(4) (2008), p.671-695

⁷ H Nicolson, *Diplomacy*, 3rd edn, Oxford University Press, London, (1969), p. 6-19.

⁸ *Ibid*, p. 7

⁹ G Berridge and A James, *A Dictionary of Diplomacy*, 2nd edn, New York: Palgrave Macmillan, 2003, p. 93.

Diplomatic relations refer to interaction among social actors and Sovereign States through the dialogue of diplomacy. These interactions are meant to discuss the business of States and are aimed at ensuring the productivity of social resources and are usually structured by rules, norms and habits.¹⁰ The main task of diplomatic relations in modern times is to guarantee the safeguarding of the interests of respective countries abroad. These interests concern the promotion of political, economic, cultural or scientific relations as well as international commitment to defend human rights or the peaceful settlement of disputes.¹¹

Diplomatic relations are also object of a series of international conventions. The most important being the Vienna Convention on Diplomatic Relations of 1961.¹² The rules of the Vienna Convention apply throughout the world and are used for the conduct of diplomatic relations amongst nations. The conduct of diplomatic relations among nations of the world was further expanded in 1963, following an agreement by the international community to set up common rules on the conduct of consular relations. This body of law governs in particular the protection of individual States' citizens abroad when conducting diplomatic relations. It also includes legal standards, for the conduct of diplomatic relations by consular agents abroad. The purpose of the agreement is to ensure that the smoothest possible relations take place between States across the globe.

Nigeria's Diplomatic Relations with Neighbouring Countries

Nigeria has always been a proponent of diplomacy in her foreign policy. Since her independence in 1960, Nigeria has maintained close and cordial diplomatic relations with her immediate neighbours and other African countries, in general. As the most populous country in Africa, she has consistently sought ways through which her profile will be raised across the comity of nations through a demonstration of a foreign policy befitting of her status. She has maintained a consistent and peaceful coexistence with her immediate neighbours and advanced regional and global engagement through trade intercourse, political and economic cooperation in the West Africa region and countries around the world.

To pursue her economic interests through good diplomatic relations within the West African sub region, Nigeria championed the formation of the Economic Community of West Africa States (ECOWAS), an organization which has ensured the promotion of Nigeria's national interests through the encouragement of the development of the region's economy through close trade intercourse and relations and strengthening the sub-region's global standing internationally.¹³

Nigeria had also for long maintained close inter-border relations with her immediate neighbours namely Chad, Benin, Cameroon and Niger to facilitate growth of trade and commerce through across the region. However, since her relationship with her immediate neighbours has been predicated on historically ill-defined and improperly delimited borders by erstwhile European colonial masters;¹⁴ the borders which are highly porous and easily penetrable, coupled with a lack of a coordinated and coherent boundary policy by West African nations often exposes Nigeria to threats stemming from the incursion of nationals of her immediate neighbours who keep gaining incursions into Nigeria trying to seek better

¹⁰J Kleiner, 'The Inertia of Diplomacy'. *Diplomacy and Statecraft*, 2008, 19, p. 321-349.

¹¹ *ibid*, p. 321

¹² *ibid*, p. 70

¹³ J O Adedoyin, 'Nigeria's Relations with her Neighbours' *Studies of Tribes and Tribals*, (2006), 4(1), pp.7-17

¹⁴ *ibid*, p. 8

OMODELE: *The Political and Legal Implications of Nigeria Land Border Closure and Big Brother Role in Africa*

opportunities.¹⁵ These incursions have led to increases in smuggling of contraband goods, arms and human trafficking, mercenary activities directly linked to religious violence and the illegal movement of people and goods flow almost freely on a daily basis.

This incursion has in recent times placed Nigeria under considerable threat from trans-border crimes and criminal activities and has raised concern over the state of Nigeria's borders. With the above issues, it cannot be understood why the federal government has been lackadaisical on border issues. Nigeria government ordered an immediate halt of the movement of goods and services through her land borders on August 19, 2019, a move that has been infamously tagged "land border closure", arguing that its economy needed to be protected.¹⁶

Legal Framework on the Nigeria Land Border Closure

The Revised Treaty of the Economic Community of West African States (ECOWAS), which was signed into law on 24th day of July, 1993,¹⁷ governs trade relations among the ECOWAS Member States.¹⁸ The treaty targets the promotion of trade by providing for co-operation in trade, customs, taxation, statistics, money and payments. It requires ECOWAS Member States to liberalize trade, as part of the trade liberalization scheme, by removing tariff and non-tariff barriers in order to establish a free trade in West Africa. Article 3, Paragraph 2(d) of the Revised Treaty provides that:

In order to achieve the aims, set out in the paragraph above, and in accordance with the relevant provisions of this Treaty, the Community shall, by stages, ensure;

- d) the establishment of a common market through;
 - i) the liberalization of trade by the abolition, among Member States, of customs duties levied on imports and exports, and the abolition, among Member States, of non-tariff barriers in order to establish a free trade area at the Community level;
 - ii) the adoption of a common external tariff and a common trade policy vis-a-vis third countries;
 - iii) the removal, between Member States, of obstacles to the free movement of persons, goods, services and capital, and to the right of residence and establishment.

Notwithstanding, Article 41 of the Revised Treaty makes allowances for quantitative restrictions on community goods by Member States as its paragraph 3 provides thus:

A Member State may, after having given notice to the Executive Secretary and the other Member States of its intention to do so, introduce or continue to execute restrictions or prohibitions affecting:

- (a) the application of security laws and regulations;
- (b) the control of arms, ammunition and other war equipment and military items;
- (c) the protection of human, animal or plant health or life, or the protection of public morality;

¹⁵ *ibid*, p. 8

¹⁶ Rodl & Partner, *op. cit*

¹⁷ <https://www.ecowas.int/ecowas-law/treaties/>

¹⁸ The 15 Member States include Benin, Burkina Faso, Cabo Verde, Cote d'Ivoire, The Cambia, Ghana, Guineas, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

- (d) the transfer of gold, silver and precious and semi-precious stones;
- (e) the protection of national artistic and cultural property.

Therefore, a Member State can validly introduce restrictions or prohibitions to trade with other Member States provided it is done for reasons or to achieve the results stated in sub-paragraphs (a) to (e) quoted above. Nevertheless, a Member State cannot rely on the exceptions where its sole intent is to frustrate free movement of goods.¹⁹

The World Trade Organization (WTO)

The World Trade Organization (WTO) regulates international trade among nations. Its aim is to open trade for the benefit of all its members²⁰ and the General Agreement on Trade and Tariffs (GATT) is the umbrella treaty for trade in goods. Article XXI of the GATT allows its members to impose trade restrictions for the protection of its essential security interests. It provides thus:

Nothing in this Agreement shall be construed:

- (a) to require any contracting party to furnish any information the disclosure of which it considers contrary to its essential security interests;
- or
- (b) to prevent any contracting party from taking any action which it considers necessary for the protection of its essential security interests
 - i. relating to fissionable materials or the materials from which they are derived;
 - ii. relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on directly or indirectly for the purpose of supplying a military establishment;
 - iii taken in time of war or other emergency in international relations;
- or
- (c) to prevent any contracting party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

The major reason Nigeria gave for the closure of her land borders was for security purposes, the Nigerian government's action was permitted under the GATT of the WTO.

The African Continental Free Trade Area (AfCFTA)

According to the African Union, the main objectives of the Agreement is to create a single continental market for goods and services and expand intra-African trade across the Regional Economic

¹⁹ The Revised ECOWAS Treaty, article 41, paragraph 5.

²⁰ Nigeria, Benin, Chad, Cameroon, and Niger are members of the World Trade Organization (WTO), https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm#collapseN

OMODELE: *The Political and Legal Implications of Nigeria Land Border Closure and Big Brother Role in Africa*

Communities (RECs)²¹ and Africa in general²². 54 countries have signed the Agreement while only 27 countries have ratified it.²³

It is however clear that the Agreement's provisions are geared towards the promotion of intra-African trade, elimination of border barriers and the creation of the world's largest free trade area, but not at the expense of the interests of the State Parties. Article 26 of the Protocol on Rules and Procedures on the Settlement of Disputes (annexed to the Agreement) permits its State Parties to take certain restrictive measures to ensure compliance with their own local laws. Article 27 of the same Protocol allows restriction for security reasons: "nothing in the Protocol shall be construed to prevent any State Party from taking any action which it considers necessary for the protection of its essential security interests."²⁴

State Parties can apply preferential safeguards for the protection of their domestic markets. Article 19 of the Protocol on Trade in Goods (annexed to the Agreement) states that: "State Parties may apply safeguard measures to situations where there is a sudden surge of a product imported into a State Party, under conditions which cause or threaten to cause serious injury to domestic producers of like or directly competing products within the territory."²⁵

Also, State Parties are allowed to take necessary measures to secure compliance with local laws or regulations which are consistent with the provisions of Article 26 of the Protocol on Trade in Goods.²⁶ State Parties can take certain measures as it relates to customs enforcement, the protection of intellectual property and the prevention of deceptive practices. However, these measures should not be applied in an arbitrary manner or to inflict unjustifiable discrimination between State Parties.²⁷ A signatory to the agreement who intends to take a restrictive action is expected to give a pre-closure notification to the AfCFTA Secretariat. In this regard, Article 17 paragraph 2 under part IV of the AfCFTA provides as follows:

Each State Party shall notify, through the Secretariat, in accordance with this Agreement, the other State Parties of any actual or proposed measure that the State Party considers might materially affect the operation of this Agreement or otherwise substantially affect the other State Party's interests under this Agreement.²⁸

Despite this, the requirement is not currently applicable to Nigeria as it is yet to submit its instrument of ratification of the AfCFTA Agreement.

Why Border Closure is Worrying West African Countries

²¹There are 8 RECs in Africa, i.e. the Arab Maghreb Union (AMU/UMA); ECOWAS; the East African Community (EAC); Intergovernmental Authority on Development (IGAD); the Southern African Development Community (SADC); the Common Market for Eastern and Southern Africa (COMESA); the Economic Community of Central African States (ECCAS), and the Community of Sahel-Saharan States (CENSAD).

²² CFTA - Continental Free Trade Area available online at <https://au.int/ent/ti/cfta/about>

²³ These 27 countries have deposited their instrument of ratification as required under the Agreement. Nigeria, Benin and Cameroon have signed the AfCFTA but are yet to deposit their instrument of ratification.

²⁴ Article 27

²⁵ The Agreement establishing the AfCFTA, article 19, part V.

²⁶ Protocol on Trade in Goods of the AfCFTA

²⁷ Protocol on Trade in Goods, article 26.

²⁸ The Agreement establishing The AfCFTA, Article 17, Part IV

African countries have different economic configurations and strategic priorities. The huge number of diverse countries within the free trade area is not going to make things easy. Indeed, free trade has its benefits, but it also has costs. Nigeria's bid to protect a declining rice farming industry and save foreign exchange has led to protectionism that defies the principles of a free trade area. The African Union (AU) has been indifferent on the issue of the land border closure. This might be because it does not have detailed institutional arrangements for settling disputes within the free trade area. Another factor might be that it has been quiet because Nigeria is involved. As Africa's largest economy, the AU courted it earnestly to sign. The agreement needs Nigeria, arguably at whatever cost.

The regional trade bloc ECOWAS has also failed to bring Nigeria to heel. Both Nigeria and Benin are members of the bloc,²⁹ created in 1975. All it has done so far is to appeal for the borders to be reopened. It clearly has no enforcement powers.³⁰ Nigeria's land border closure may be a precursor. More incidents like this can be expected as the realities of free trade kick in. Some countries will lose, others will gain. The AU needs protocols and measures to manage free trade, as well as programmes to prepare political leaders for the realities that will follow. The free trade area should not be a mere symbol. It must be understood and appreciated for it to succeed. The Nigeria border closure must be resolved. It is diverting attention and positive energy from matters that can promote the free trade area, such as investments in transport infrastructure, trade data capture and border protection. It is a bad precedent that could reduce other countries' commitments to economic integration in Africa. The AU should act, or prepare to bury the free trade deal.

The Economic Implications of the Nigeria Land Border Closure

Since the border closure announcement and its immediate implementation, inflation has been on the rise in Nigeria. The latest consumer price index (CPI) report released by the National Bureau of Statistics (NBS) from November 2019 to March 2021 proved that the year-on-year food inflation rate increased at a high rate month-on-month increase - with rice, poultry products, frozen fish, cooking oil / fats and bread / cereals recording the highest increase in cost prices nationally.³¹ A huge contrast with regards to decelerating food inflation rates usually recorded during a harvest season.

Staple food commodities like rice, vegetable (cooking) oil, frozen fish, poultry products and packed beef are among the highest hit on the national spectrum in terms of the inflation in food prices since the enforcement of Nigeria's land border policy. Rice as one of the main national staple food commodities unsurprisingly has claimed its place as a topic for constant national debate. With context to its massive demand, inability of domestic supply to meet demand, cultural reverence and taste preference, it is inevitable to discuss the land border closure without talking about rice.³²

The United States Department of Agriculture (USDA) estimates that local demand for rice in Nigeria alone is at 7.3 million metric tons. Currently, local production stands at 4.8 million metric tons yearly. This suggests that the inability of domestic supply to meet local food demand will cause an inflation of food prices when and if food imports are proscribed. With Benin and Togo posturing themselves as entrepôt States to Nigeria - where Nigeria's manufacturing and agro production distortions are actively exploited, Nigeria's consumption habits over the last three decades has been shaped by its over-

²⁹ <https://www.ecowas.int/member-states/>

³⁰ <https://www.pulse.ng/news/local/ecowas-parliament-appeals-to-buhari-to-open-borders/513nqmk>

³¹ National Bureau of Statistics - CPI and Inflation Report March, 2021 page 56. Available at nigerianstat.gov.ng accessed on 08 / 05 / 2021

³² *ibid*

OMODELE: *The Political and Legal Implications of Nigeria Land Border Closure and Big Brother Role in Africa*

dependence on imports from the re-exports of these two neighboring entrepôt States (in particular) into the country.

Given the significance of food import via the entrepôt States for meeting the observed supply gap, abrupt closure of the land border cut that supply channel, further entrenching the observed supply gap. This is where the excess demand is now driving up prices. For a country with the highest number of extremely poor people in the world³³, any significant spike in food inflation can cause devastating effects to its already poor population, making social upward mobility more difficult. Hence, policies that further reduce purchasing power predispose the poor to higher vulnerability. The core question on the national discourse table is what exactly this land border closure aims to achieve - government claims the policy will help curb smuggling of goods through its land borders thereby bolstering domestic food production and national productivity levels in all sectors.³⁴

This goal of the government in particular, implies the ineffectiveness of its customs and immigration service especially with the inability of the country to protect its borders and effectively enforce import restrictions on certain goods. It is not likely that this border policy will achieve its end-goal in the short-term or in the long-term as even with the blanket ban on imports through its land borders, bolstering domestic food production and raising national productivity levels almost immediately will be extremely difficult to attain due to the structural problems abound in the country.

What to be Done to Salvage the Situation

To curb smuggling and bolstering domestic capacity to attain national productivity at all levels, there should be a multi-pronged approach from government: to improve the capacities of its customs and immigration services, embark on land reforms, improve access to micro and macro-credit for farmers and entrepreneurs, enhance accessibility to affordable and reliable electricity as well as incentivize private sector investments. This is the first step to getting things right - by ensuring government policies improve lives.³⁵

Merits and Demerits of the Nigeria Land Border Closure

The land border closure will lead to a significant drop in the volume of smuggled goods into the country. Some pundits and government officials have argued that this line of thought of³⁶ land border closure will lead to increased revenue in customs duties, increased local production of goods and services. This means that there will be more food for Nigerians, cheaper products / goods and services, more jobs for the Nigerian populace, leading to an increased GDP especially when exports go up. This are all part of the positive benefits Nigeria stands to gain with the border closure policy.³⁷

Border Closure is also expected to increase focus on the prohibition of fraudulent export of petroleum products and fight the importation of second-hand clothes, vehicles, rice and other products through the border, and allow for the growth of local industries. In terms of agricultural production, another positive side of the land border closure can be felt; the border closure seems to be increasing the production and

³³ *ibid*

³⁴ *ibid*

³⁵ M Masinjila, 'Gender Dimensions of Cross Border Trade in the East African Community'. Kenya-Uganda & Uganda - Burundi Border. African Trade Policy Centre (ATPC) NO. 78 Economic Commission for Africa. 2009; pp 1 - 66

³⁶ G L Adeola and F Oluyemi; 'The Political and Security Implications of Cross Border Migration Between Nigeria and Her Francophone Neighbours', *International Journal of Social Science Tomorrow*, Vol. 1(3) 2012; pp 1-98

³⁷ *ibid*

demand for local agricultural produce, which was one of the main motives behind the land border closure. Nigeria's rice production capabilities for instance have greatly increased through the closure and Nigerian rice farmers are happy with the government decision to close the nation's borders³⁸ and have incessantly expressed joy over the closure as it has created a worthy opportunity to sell their products without competition from smuggled international substitutes.³⁹ It will allow more people to divert energy to agricultural production. As more energy is diverted to agricultural production, more employment opportunities are created in the agricultural value chain, besides farmers, distributors, retailers and merchants will be more in demand.⁴⁰

The land border closure is not an entirely mindless exercise. It can be said to be a worthy exercise as it curbs smuggling, especially of arms and ammunition. This assertion has been explicated by many who see the closure as a way to tackle insecurity which Nigeria is currently running a battle to curb.⁴¹ Smuggling has been a thorn in the flesh of the Nigerian economy. Several industries have been hurt by this negative practice - in 2015 textiles worth \$2.2 billion smuggled from Benin Republic swamped the \$40 million produced locally every year, according to the World Bank.⁴²

While the closure of Nigeria's land borders certainly has many benefits accruable to Nigerians, however, like all other protectionist policies, the cons of closing the land borders, especially for the citizens, may be disadvantageous. The decision challenges the Nigerian government to make every effort towards the development of the nation's local economy particularly how efforts can be exerted to empower the growth of locally made products and empower local manufacturers of the products. Concerns have also been raised about the continued closure in terms of food production and reduction in food items especially rice.

The talk by the government that the price of rice will go down seems to be more of talk and talk. Rice, Nigeria's most consumed food product is getting more expensive by the day in certain parts of the country and it is becoming increasingly clear that either supply cannot meet demand, or that there is a problem with distribution from the source to the final consumers. It is not clear, whether the increase in price is because of these challenges, or if it is just producers recklessly raising the price because consumers do not have the luxury of choice.⁴³ It has been argued that rather than focus on the volume of import into Nigeria, more attention should be paid towards improving export.⁴⁴ It is stated that South Africa which has a lesser population compared to Nigeria, imports more than us. The country balances the equation by exporting more than we currently manage. If Nigeria can actually improve export, there will be less need to worry about importation.⁴⁵

There are also concerns that the domestic food production cannot meet domestic demand. In 2017, demand for rice in Nigeria reached 6.7 million tons almost double the 3.7 million tons produced domestically. The wide gap between the production and consumption of items are usually bridged with

³⁸R Akinkuolie, 'Nigeria's Border Closure: Pros, Cons, and Consequences', (2020). Available at: www.thenewsnigeria.com.ng/2020/01/02/nigerias-border-closure-pros-cons-and-consequences/

³⁹ *ibid*

⁴⁰ *ibid*

⁴¹ *ibid*

⁴² *ibid*

⁴³ T Azaaviele, 'Nigeria's Border Closure has Implications for Africa's Economic Integration', *The Conversation*, 2019, p34.

⁴⁴ *ibid*

⁴⁵ *ibid*

OMODELE: The Political and Legal Implications of Nigeria Land Border Closure and Big Brother Role in Africa

imports. The border closure has caused the consignments of many importers of perishable goods to be trapped across border, thus incurring losses amounting to several millions of naira.⁴⁶ Therefore, due to the inability of Nigerians to buy these imported products, there was a corresponding increase in demand of local products, like rice and poultry, therefore making the price of locally made rice skyrocket. The price of a 50-kilogram bag of rice has increased from N9,000.00 to about N25, 000.00 as at 2019.⁴⁷

The competition with foreign manufactured products have forced the closing down of many thriving Nigerian brands and companies, who have either downsized their workforce or relocated to other African countries such as Ghana. Nigerian manufacturers have been unable to export their products such as cocoa, leather etc. to the West African markets *via* the land borders. This has not only further reduced the volume of export but has also brought these manufacturers the risk that they may have lost vital markets by the time the borders are eventually reopened.⁴⁸ The Vanguard,⁴⁹ asserts, “Nigerian cargoes are being rejected by the ECOWAS States in retaliation to the border closure” by Nigeria. The Vanguard further suggests that any benefits of the border closure are at the macro level and the country’s many poor are likely to be the main losers.

The border closure is affecting the trans-border commerce between Nigeria and her neighbours. Traders from Nigeria have for long imported vegetables, tubers, livestock and grains from Nigeria’s immediate neighbours namely Benin, Chad and Niger Republics. The importations of these products were meant to make up for deficits in Nigeria. Manufactured household products and building materials were also exported from Nigeria to these countries through such arrangement.⁵⁰ The border closure however seems to be a harrowing experience for Nigerian traders as it seems to be affecting their means of sustenance. For countries like Benin in particular, the border closure is having severe economic effects on the country’s economy, a country through which several goods have found their way into Nigeria. Therefore, the continued closure of the border may severely affect the economy of some of Nigeria’s neighbours, which may ultimately have a negative impact on Nigeria itself.⁵¹

Diplomatically, the land border closure has many impactful implications on Nigeria’s relations with her immediate neighbours. It seems to be widening the diplomatic row between the Nigeria and her immediate neighbours who have berated the action of Nigeria and have called for rescinding the decision. Various stakeholders within Nigeria and across West Africa have also berated the action and regarded it as antithetical to Nigeria’s big brother status.

The border closure came barely a month after Nigeria signed the African Continental Free Trade Agreement (AfCFTA) which is scheduled for full take off by July 2020 and is expected to create the world’s largest free trade area and lead to a 60% boost in intra-African trade. The border closure cast doubts over Nigeria’s commitment in guaranteeing the free movement of capital, persons, goods and services under the trade agreement.⁵² Deliberations have been ongoing as regards to the adoption of a single currency and led to the adoption of the “Eco” in January 2020. Just like the “Euro” currency of the European Union the “Eco” is meant to encourage intra-African trade, ensure microeconomic

⁴⁶ *ibid*

⁴⁷ *ibid*

⁴⁸ Vanguard, ‘Border Closure: ECOWAS Countries Reject Nigerian Goods’, Accessed January 12, 2020 from: www.vanguardngr.com/2019/11/border-closure-ecowas-countries-reject-nigerian-goods/

⁴⁹ *ibid*

⁵⁰ T Azaaviele, *op. cit*

⁵¹ *ibid*

⁵² Rodl & Partner, *op. cit*

stability, manage exchange rate crisis. The border closure however casts doubts on the success of the Eco.⁵³

It is easy to forget the effect of the border closure on Niger, Togo, Benin Republic and other neighbouring countries. The Benin Republic, Nigeria's Western neighbour is most affected by the border closure. According to World Bank estimates, "80% of Benin's imports are destined for Nigeria and 20% of its GDP and national income is accumulated for by the transit trade with Nigeria. Niger Republic, Nigeria's northern neighbour, has responded to the border closure by placing a ban on the exportation of rice to Nigeria. The land border closure is also likely to degenerate into a diplomatic mess, which will likely stifle the long-term socio-economic and political development of the West African sub region.⁵⁴

What comes Next after the Border Closure?

The closure of Nigeria's land borders on August 2019 is intended to curb the nagging problems of cross border smuggling and criminal activities. Some pundits see the decision as good but ill-timed and might not really stall the tide of cross border smuggling and criminal activities. These pundits also argue that although the land border closure is the right step in ensuring that Nigeria's territorial integrity is protected, the move might however generally be misconstrued as an economic blockade of affected countries, and a bad precedence, which other countries may choose to emulate in future.⁵⁵

Pundits have also argued that Nigeria should focus more on open markets and closed borders, rather than on closed markets and closed borders. This is because closed markets and closed borders is not the solution to Nigeria's challenge of smuggling and cross border criminal activities. "Countries across the world have developed their economies through open markets and closed borders rather than on closed markets and closed borders."⁵⁶ Open markets and closed borders enables the borders to be open to people and goods, but closed off to terrorists and other people that might harm a country.⁵⁷ India is a good example of such countries. In building her economy, India shut her borders, but left her markets open to trade, while at the same time cutting the importation of manufactured goods for several decades to enable the local industries mature. This made the Indian economy self-reliant.⁵⁸

Border closure as a means of fighting smuggling and crime might be a good move; it could also be a daunting challenge especially in Africa, where the long porous borders are inhabited by communities of the same ethnic groups, who survive on trans-border commerce and smuggling.⁵⁹ Consequently, before ordering an indefinite closure of the country's land borders, the Nigerian government should have confirmed if current supply can outweigh demand, should have put in place the necessary measures to curtail smuggling, allow the imports of certain food items while increasing the tax on them and ensure the improvement of infrastructure to allow for better movement of products from the farmer to the consumer while subsidizing essential food items to further incentivize people to buy locally produced

⁵³ *ibid*

⁵⁴ *ibid*

⁵⁵ Cardinal Stone Report, 'Border Closures May Only Offer Temporary Subsidy Reprieve'. Retrieved from: www.research.cardinalstone.com/storage/ResearchReports/Border%20closure%20may%20only%20offer%20temporary%20subsidy%20reprieve.pdf

⁵⁶ *ibid*

⁵⁷ *ibid*

⁵⁸ *ibid*

⁵⁹ A Okon; 'Emerging Gains and Losses of Nigeria's Border Closure'. *The Punch*. , October 15, 2019. Retrieved from <https://punchng.com/emerging-gains-and-losses-of-nigerias-border-closure> on 08/05/2021.

OMODELE: *The Political and Legal Implications of Nigeria Land Border Closure and Big Brother Role in Africa*

food.⁶⁰ This will ensure that Nigeria's mutual diplomatic relations with other nations are further strengthened and maintained.

There should also be more government presence at the border regions including a special border patrol corps (land, air and sea) and the creation of additional border posts. Government should adopt policies that will transform border areas from their deplorable conditions and put in place effective machinery that would speed up developmental process. This would also ensure patriotism by the inhabitants and deter their youth from being exploited by subversive criminals operating across borders. Construction of roads, rail and communication infrastructures and the location of related economic activities in the border areas would integrate the region with the rest of the country and attract more development. Where natural resources occur in border areas, government should consider the option of joint exploitation with immediate neighbours. Cooperation with neighbouring governments to block the movement of criminals, terrorists and supplies across borders should continue. Government should also consider harnessing the historical, cultural and economic ties among immediate neighbours and peoples to foster cooperation.

Plans should be put in place to ensure that security personnel operating across the borders are made to discharge their duties effectively and efficiently. Government therefore needs to evolve a new approach to securing the border, one that includes an integrated mix of development interventions for border communities, trained and dedicated officials, and enhanced border situation awareness infrastructure. Border development programmes have been successful in countries having porous borders i.e, Pakistan, China, Nepal, Bhutan, Myanmar and Bangladesh.⁶¹ This process can be achieved through the building of cordial diplomatic relations with Nigeria's immediate neighbours.

In fighting cross border crimes and criminal activities, there is also the need to integrate workable synergies between the Nigerian government and its immediate neighbours. A tripartite anti-smuggling committee founded by Nigeria, Niger and Benin Republic resolve cross border issues and from November 25-27, 2019 the countries met at Abuja to establish a Joint Border Patrol Team to help address cross border issues.⁶² While developments like these are laudable, more needs to be done if cross border crimes and criminal activities are to be fought effectively. As part of efforts aimed at strengthening the monitoring of the borders, in addressing the spate of security challenges and insurgency in Nigeria's borders, there has to be a well-defined and articulated strategy for obtaining information.⁶³

Intelligence agencies in Nigeria and neighbouring countries need to play a more active role in border security especially in the areas of gathering relevant information such as the points and exact number of illegal crossings. The intelligence agencies need to make sure they share vital border information with immigration across neighbouring countries, the communities and other relevant security agencies. In ensuring that such concerted effort works to perfect length, occasional meetings between security operatives in Nigeria, Benin, Chad and Niger Republic should be encouraged. Such an alternative will

⁶⁰ Vanguard; 'Border Closure: ECOWAS Countries Reject Nigerian Goods', (2019). Retrieved from www.vanguardngr.com/2019/11/border-closure-ecowas-countries-reject-nigerian-goods/ on 08/05/2021.

⁶¹ H Starr and B A Most, 'The Substance and Study of Borders in International Relations Research.' *International Studies Quarterly*, (1976), 20 (4).

⁶² Rodl & Partner, *op. cit*

⁶³ J Egbas (2019, October 16) 5 things you should know about Nigeria's border closure. Retrieved from <https://www.pulse.ng/news/local/5-things-to-know-about-nigerias-border-closure-pulse-explainer/zr1e5cv>

encourage more collaboration and information sharing to bridge the gap of communication between Nigeria and her immediate neighbours.

The land borders closure does not violate the foregoing provisions of the ECOWAS Revised Treaty, the WTO's GATT and the AfCFTA Agreement to the extent that the closure was made for security reasons and for the protection of the domestic markets, amongst other reasons. Nigeria's land borders are reported to have been used as thoroughfare for smugglers and the government has repeatedly noted that there is a need to checkmate illegal activities and importation of contraband goods. As such, the land borders had to be closed to develop a strategy on how to curtail same. These reasons are envisaged and provided for in these trade agreements. States retain their sovereignty and are permitted to apply protective measures as it relates to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials taking place either directly or indirectly for the purpose of supplying a military establishment. However, requisite notice must have been given to the relevant body and the affected States before the closure can be effected in accordance with the extant trade agreements.

Conclusion and Recommendations

In view of the foregoing, this paper hereby concludes that the problems and the precarious situation of the land border closure can be addressed only when there are well articulated plans on ground. Consequently, there is the need for Nigeria to strengthen her internal institutions, social fabrics and advance of the standards of life, as well as clean up tighten and stabilize her borders, to make Nigeria's economy better for her citizens and the country at large. Well-organized alignment and coordination must take place at a regional level (i.e. at the West African sub-regional level); to control a border from only one side is virtually impossible.

Efforts to create national security frameworks in Nigeria should correspond to and support similar efforts at the regional level, permeating down to the border communities. At present, the countries of Africa lack information about what their neighbours are doing and what is happening in terms of smuggling and the trend of criminal activities their borders. Nigeria could seek additional ways to build regional security arrangements. This should go beyond lip service or talk and talk. Since it has been identified that a significant number of belligerents in the spate of crime / insurgent activities and their equipment have continuously entered Nigerian borders through her neighbours, putting communities where such borders are located at risk. Nigeria's diplomatic relations and foreign policy towards her immediate neighbours needs to be geared towards ensuring the boarders are closely policed. The efforts of security operatives should also be targeted at cross-broader operations not only in maintaining closer monitoring but also to enhance the crackdown and cross-country chasing of belligerents and proponents of insecurity in Nigeria and the West African region at large.