LIBERALIZATION OF TRADE IN PROFESSIONAL SERVICES UNDER THE AFRICAN CONTINENTAL FREE TRADE AREA (AFCFTA) AGREEMENT AND IMPLICATIONS FOR THE LEGAL PROFESSION IN NIGERIA

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Abstract

Foreign lawyers are presently barred from engaging in legal practice in Nigeria without prior authorization. However, this could change in the future thanks to the African Continental Free Trade Area (AfCFTA) Agreement. The 2018 agreement seeks to reduce barriers to trade among African countries and one of its main operational protocols is the Protocol on Trade in Services (PTS). The AfCFTA PTS seeks to liberalize services trade amongst state parties, and five priority sectors have been identified for the take-off stage. One of them is professional services which encompasses legal services. It is therefore now possible that the Nigerian legal services sector which has hitherto shut its doors on foreign lawyers could one day open up to them. This article examines the shape that any future changes could take as well as what it means for lawyers in the country. The outcome of the inquiry is that the potential liberalization is a bag of mixed fortunes. While Nigerian lawyers and law firms will get considerable latitude to operate in other African countries, they could also face competition from law firms/lawyers from different jurisdictions who want to operate in the country. It is therefore recommended that lawyers and professional bodies in the country should get prepared for any future eventuality.

Keywords: AFCTA, Professional Services, Legal Profession, Trade Liberalization

1 Introduction

In February 2024, there were reports that Nigeria and the United Kingdom had signed a trade agreement that would amongst other things enable UK-licensed lawyers to practice in Nigeria. The reports sparked an immediate backlash from lawyers in the country with the Nigeria Bar Association (NBA) condemning the agreement. The then-NBA president pointed out that the agreement could adversely affect the means of livelihood of Nigerian lawyers. He also made it clear that even if the agreement was on a reciprocal basis, the country was not yet at the level where its lawyers could mutually benefit given the knowledge and skills gap.[1] The fierce backlash caused the Nigerian Ministry of Trade and Investment to backtrack and the matter has since been laid to rest. However, the episode once more shone light on how tightly guarded the legal profession is in Nigeria. Only lawyers admitted to the bar in the country are allowed to practice with very minor exceptions. This has been the case for decades now however there could be a change on the horizon and this is thanks to the 2018 African Continental Free Trade Area (hereinafter referred to as the AfCFTA) agreement. The agreement, which came into effect on the 30th of May 2019, includes a specific protocol on trade in services, the AfCFTA PTS, which is the first continent-wide trade-in-services treaty in Africa. Before the entry into force of the AfCFTA, intra-African and inter-African services trade was made possible by various institutions and instruments such as the World Trade Organization and its General Agreement on Trade in Services (GATS). There are also the numerous multi-lateral and bilateral agreements signed by various African countries.

Another important catalyst in services trade on the African continent has been the regional economic communities (RECs). There are eight RECs officially recognized by the African Union

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[1] Josephine Ogundeji, 'NBA Rejects Agreement to Let UK Lawyers Practice in Nigeria' Punch Newspapers (Lagos, 14 February 2024) < https://punchng.com/nba-rejects-agreement-to-let-uk-lawyers-practise-in-nigeria/> accessed 14 February 2024.

(AU) and all of them envisage liberalization of trade in services amongst member states However, the means through which they have set about achieving this varies and the success rate varies as well. For instance, the Southern Africa Development Community (SADC) has a comprehensive trade-in-services treaty but it only entered into force in 2022. The East African Community (EAC) has a common market protocol that provides for services trade. COMESA member states have adopted a regulation on trade in services. The likes of ECOWAS, CEN-SAD, IGAD, ECCAS, and AMU do not have a specific trade-in-services protocol. They rather have relevant regional regulations on the free movement of persons, services, capital, and the right of establishment. This has nevertheless helped to boost trade in services in those regions. For instance, a 2025 study shows that ECOWAS and the EAC outperformed other RECS in trade in services. Both regional blocs achieved broad-based growth in intra-regional services trade in sectors such as business, finance, construction, and entertainment.[2]

The RECs have also facilitated cross-border trade in legal services on the African Continent and there are two notable examples in this regard. They are the EAC and the West African Economic and Monetary Union (WAEMU or UEMOA). Under the EAC's Common Market Protocol, state parties not only have a duty to work on the removal of restrictions on free movement of labour but they must also collaborate on mutual recognition of academic and professional qualifications. They are further mandated to take steps to harmonize their legal training and certification. The EAC also introduced a comprehensive Cross-Border Legal Practice Bill in 2014 but it has yet to enter into force.[3] This has hampered the ability of EAC lawyers to freely move and practice within the bloc. Rwanda is the only EAC country that is open to lawyers from all other EAC members. They allow them to engage in temporary practice. Such lawyers can also apply to be admitted to the Rwandan Bar. Also, law graduates who hail from any EAC state party and fulfil the necessary requirements can apply to be admitted to the Rwandan bar.[4] All other EAC member states still have one form of restriction or the other for lawyers from other member states.

Another regional bloc that has performed well in cross-border legal practice is the West African Economic and Monetary Union (WAEMU), a sub-regional bloc under the ECOWAS.[5] Lawyers from WAEMU member states can practice freely in any other member state and can set up offices there. They can also appear in courts within the union. All this is made possible by the WAEMU treaty (as amended) as well as various regulations that the bloc has passed. They include the Regulation No. 05/CM/UEMOA of 2014 (Harmonization of the Rules Governing the Legal Profession in the UEMOA Area) as well as the Regulation No. 10/2006/CM/UEMOA of 25 July 2006 (relating to the free movement and establishment of lawyers who are nationals of UEMOA member states).

As pointed out above, Nigeria and other members of ECOWAS have tasted success in services trade in areas such as entertainment, finance, etc. thanks to the rights granted under the protocol relating to free movement of persons, residence, and establishment. However, professional services, such as legal services, have remained a closed-off space as the aforementioned protocol is not nearly enough to create the framework for such trade to occur. The regional body has

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[2] John Stuart, 'Intra-African Services Trade Integration: Data-Driven Insights for the AfCFTA' (TRALAC, 28 February 2025) <https://www.tralac.org/publications/article/16722-intra-african-services-trade-integration-data-driven-insights-for-the-afcfta.html> accessed 15 April 2025.

[3] Pie Habimana, 'The Shadows of Cross-Border Legal Practice in the East African Community' (2024) 21(1) LWATI < https://www.ajol.info/index.php/lwati/article/view/268187/253076 > accessed 1April 2025.

[4] Helen Trouille and Mbembe Binda, "The Evolution of the Free Movement of Lawyers in the European Union and the East African Community Compared: Achievements and challenges in implementing integration freedoms in England and Wales and Rwanda" (2021) RaY < https://ray.yorksj.ac.uk/id/eprint/5011/1/1.3%20-%20TROUILLE%20Helen%20and%20BINDA%20Mbembe.docx> accessed 18 April 2025.

[5] Member states are namely Benin, Senegal, Togo, Ivory Coast, Guinea Bissau, Niger, Burkina Faso, and Mali

however been taking steps to remedy this. In July 2016, ECOWAS launched a Services Policy Review with the support of the United Nations Conference on Trade and Development (UNCTAD) to assess the current state of trade in services in the region. The report came out in 2020 with 13 service sectors, including legal services, forming the centre piece. The report highlighted the barriers to services trade in the region and urged member states to work on rolling back barriers, adopting mutual recognition measures, etc. ECOWAS member states are now taking advantage of the AfCFTA to forge ahead.[6] Given the service sectors spotlighted in the SPR report as well as the priority sectors already outlined under the AfCFTA PTS, it means that there is a realistic chance that Nigeria could one day make commitments in legal services which would in turn affect the legal profession in the country. This work examines the shape of the potential changes that could take place and the implications for the legal profession in the country. The rest of the work is arranged as follows: section two examines the provisions of the AfCFTA PTS while section three discusses the current status of the legal profession in Nigeria. Section four focuses on the possible changes that the AfCFTA regime could bring as well as the opportunities and challenges therein for Nigerian lawyers. Section five concludes the work and offers some recommendations on what lawyers in Nigeria can do to benefit from the impending change.

2. Overview of the AfCFTA Protocol on Trade in Services (PTS)

The AfCFTA PTS is heavily influenced by the WTO's GATS and as such, follows the GATS approach, both in terms of the definition of services, services covered, and those excluded, as well as the measures covered. It also adopts the four modes of supply of services as well as the types and levels of obligations delineated by GATS. The types and levels of obligations created under the PTS also align with that of the GATS.

2.1 Modes of Supply of Services under the AfCFTA PTS

Under the PTS, the supply of services can be done through any of these four modes namely –
I) Mode 1 (Cross-border supply)
ii) Mode 2 (Consumption abroad)
iii) Mode 3 (Commercial presence)
iv) Mode 4 (Presence of natural persons)[7]

2.2. Unconditional General Obligations

One of the mandatory obligations for AfCFTA state parties under the PTS is the Most Favoured Nation principle enshrined in Article 4. It mandates all AfCFTA state parties to accord to service suppliers of other state parties a treatment that is no less favourable than it accords to like services and service suppliers of a third party. It, therefore, means that each AFCFTA state party is expected to extend the best treatment that it grants to any third-party service or service supplier to other AFCFTA state parties' services or service suppliers in so far as it is a like service or like service supplier. Another mandatory obligation for AfCFTA state parties under the PTS is transparency. Once state parties adopt any measures (rules, regulations, laws, etc.) that generally affect services trade, they have to promptly publish them. They also have to publicize any trade agreements that they sign up to, among others. The obligation to be transparent does not interfere with state parties' right to refuse to disclose confidential information on security grounds, public interest grounds, etc.

[6] Ghana Export Promotion Authority (2022) <https://www.gepaghana.org/ecowas-regional-experts-meet-on-the-draft-ecowas-common-schedule-of-specific-commitments-on-trade-in-services-for-the-african-continental-free-trade-area-afcfta/> accessed 30 September 2023.

[7] Article 1p of the PTS.

2.3 Specific Obligations

Just like the GATS, the AfCFTA PTS also creates specific obligations such as Market Access, National Treatment, and Additional Commitments.[8] These are obligations that state parties voluntarily take on in their schedule of commitments in order to further liberalize their service sectors. The AfCFTA PTS takes the positive list approach which means that state parties have to expressly list the sectors they want to liberalize. Any sector not listed is automatically deemed excluded.[9] Therefore, every AfCFTA state party has to draft and submit a schedule of commitments. In that schedule, they have to set out the service sectors they are willing to liberalize (grant market access, national treatment, and other additional commitments) and the terms and conditions for doing so. Once they have done that, they are bound by the schedule.

2.4 Conditional General Obligations

This refers to obligations that an AfCFTA state party must comply with but only with regard to the service sectors which they undertook to liberalize. An example is the issue of domestic regulation. The PTS does not interfere with the rights of state parties to regulate their domestic service industries.[10] However, where a state party has committed to liberalizing a particular service sector, they are to ensure that domestic regulations in that sector are implemented in an impartial and transparent manner. Such state parties must also provide timely updates to service suppliers on any applications they are required to make.

2.5 Mutual Recognition under the AfCFTA PTS

When individuals, either acting as independent contractors or employees of a company, go to other countries to render services, they often have to fulfil certain education and professional requirements before they can practice their profession in that country. It doesn't matter that they are already properly qualified in their own country. Such is a major obstacle to trade in professional services, and one of the ways of combating this is mutual recognition i.e. countries recognizing certificates, education, and experience earned in other countries. Mutual recognition can be accorded unilaterally or flow from a bilateral or multilateral agreement between different countries. It can also be achieved through the harmonization of laws of two or more state parties.[11] Article 10 of the PTS provides for mutual recognition. State parties can recognize the education, experience, licenses, and certificates obtained by service suppliers in another state party for the purpose of licensing and certifying them, either wholly or partly. AfCFTA State parties are prohibited from according recognition in a manner that will be discriminatory amongst other state parties.

3. Current Status of the Legal Services Industry in Nigeria

The Legal profession in Nigeria is over 130 years old. Mr. Nash Hamilton Williams was the first person to be enrolled at the Supreme Court of Nigeria on February 20, 1886.[12] From just a handful

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[8] Articles 19, 20, and 21 of the PTS.

[9] Laurel S Terry, 'From GATS To APEC: The Impact of Trade Agreements on Legal Services' (2010) The Pennsylvania State University Dickinson School of Law Legal Studies Research Paper 21/2010 875-984 <https://ideas.dickinsonlaw.psu.edu/cgi/viewcontent.cgi?article=1156&context=fac-works>accessed 18 July 2023.

[10] Article 9 of the PTS.

[11] Regis Y Simo "Trade in Services in the African Continental Free Trade Area: Prospects, Challenges and WTO Compatibility" (2020) 23 (1) JIEL < https://academic.oup.com/jiel/article-abstract/23/1/65/5627761> accessed 12 December 2024.

[12] Oluwakemi Adeyemi 'Musings on Legal Practice in Nigeria' (2 June 2020) <https://aolulaw17.medium.com/musings-on-legal-practice-in-nigeria-c15d1bcd4e96#_ftn1> accessed 22 July 2023.

of lawyers, Nigeria now has about 100,000 lawyers.[13] The legal profession in the country is governed by several legislations, rules, and regulations administered by several regulatory bodies. One of the laws is the Legal Practitioners Act 2004. This Act spells out who is allowed to practice law in Nigeria and that is only those whose names are on the Roll of legal practitioners maintained by the registrar of the Supreme Court.[14] Persons whose names can be enrolled are those that have been called to the bar by the Body of Benchers. Apart from this general requirement that a person must be called to bar in Nigeria before they can practice law in the country, police officers and officers of other law enforcement agencies are allowed to carry out limited legal practice – such as prosecuting defendants in court. Aside from these two categories of people outlined above, no other person is allowed to practice law in Nigeria. Additionally, the Rules of Professional Conduct expressly forbids lawyers in Nigeria from setting up partnerships with foreign lawyers or non-lawyers if the intention is to engage in the practice of law. They can however partner for other purposes.[15] This means that partnerships are not available as an option for a foreign lawyer who wants to participate in the Nigeria legal services industry.

3.1 Exceptions to the General Rule Prohibiting Foreign Lawyers from Practicing in Nigeria

3.1.1 Temporary Admission

By virtue of Section 2 (2) of the Legal Practitioners Act 2004, a foreign lawyer can apply to the Chief Justice of Nigeria (CJN) to be allowed to temporarily practice in Nigeria for the purpose of representing a client in a specified court proceeding. In deciding on the application, the CJN will examine whether the country where the applicant lawyer is qualified to practice as an advocate has a legal system that is similar to Nigeria's. If the CJN is satisfied and deems it expedient to grant the application, they may go ahead and grant the applicant a warrant to practice as a barrister strictly for the purpose(s) of the particular court proceedings for which the warrant is granted and any appeal that may arise. Therefore, it is possible for a foreign lawyer to appear before a court in Nigeria. However, there are limitations to this privilege. Aside from the fact that the lawyer can only appear in the case for which he or she has been given a warrant, he or she will also have to contend with the requirements for lawful entry into the country as such will not be automatically waived.

In *Awolowo v Minister of Internal Affairs,* [16]the appellant (Awolowo) was charged with conspiracy and treasonable felony and hired a British lawyer to defend him in court. The lawyer was denied entry into Nigeria by the Minister of Internal Affairs. The appellant argued that this amounted to a violation of his constitutional right to be represented by any counsel of his choice in a criminal trial. This argument was rejected by the courts. The apex court held that even though a defendant in a criminal matter had the right to be defended by a lawyer of his choice, such a lawyer must not be under any disability such as not having an entry visa into the country. The court also held that the right to be represented by a legal practitioner of one's choice is limited to a lawyer who can validly practice in Nigeria.

[13] Alex Enumah, 'Nigeria needs more lawyers says Azinge' Thisday (2020) <https://www.thisdaylive.com/2022/07/19/nigeria-needs-more-lawyers-says-azinge/> accessed 2 July 2023.

[14] Section 2(1) (a) and (b) of the Act provides that a person is only entitled to practice as a barrister and solicitor if his/her name is on the roll of the Supreme Court of Nigeria or he/she is authorized to practice as a barrister by a warrant of the Chief Justice of Nigeria for the purposes of a particular proceeding. The Supreme Court also held in Alhaji Ibrahim Hassan Dankwambo & Another v Jafar Abubakar & Others. [2015] LER 732 (SC) that only a person whose name is on the roll is entitled to practice as a barrister and solicitor before the courts in Nigeria.

[15] Rule 5(1) of the RPC 2023.

[16] *[1962] 4 NCLR 261 (SC),*

3.1.2 Requalification

The Legal Practitioners Act makes it possible for a foreign lawyer to be enrolled in Nigeria and be able to permanently practice in the country, i.e. requalification. Section 7 (2) of the Legal Practitioners Act empowers the Attorney General (AG) in consultation with the General Council of the Bar to stipulate that lawyers from a particular country can be enrolled to practice in Nigeria. Such a country must extend similar treatment to Nigerian lawyers. The AG's resolution can stipulate the process that the applicant lawyer has to pass through before they can be enrolled to practice in the country (e.g., they may be asked to write some exams, pay some fees, etc.). No such regulation on requalification currently exists in Nigeria but it can always come into play in the future, especially within the context of the AfCFTA.

3.1.3 Arbitration

The previous legal regime disqualified foreign lawyer from taking part in domestic arbitration in Nigeria. For instance, Article 4 of the Arbitration Rules made pursuant to the Arbitration and Conciliation Act 2004 stipulated that parties to an arbitration proceeding can be represented by any "legal practitioner" of their choice. In *Shell Nig. & 3 others v FIRS & another*[17], the Court interpreted legal practitioner to mean a practitioner as defined under Sections 2(1) and 24 of the Legal Practitioners Act 2004.[18] Things are however now different under the Arbitration and Conciliation Act 2023 and the rules made thereunder. Article 5 of the rules states that a party to an arbitration proceeding can be represented by a person or persons chosen by it. The word Legal practitioner is not used again. Section 7 of the Act also provides that a person shall not be precluded from being an arbitrator by reason of their nationality unless the parties agree to this.

3.2 How Lawyers Get by the Current Restrictions on Foreign Legal Practitioners in Nigeria

The opportunity for foreign lawyers and foreign law firms to practice in Nigeria is quite limited and in order to get by this, foreign lawyers and law firms collaborate with their Nigerian counterparts. Several Nigerian law firms have bilateral agreements with foreign law firms enabling practice sharing, training, and legal secondments. Another common method of collaboration is law alliances. This involves law firms from different countries coming together to form an alliance of integrated law firms through which they can provide services to their clients in multiple jurisdictions. These bilateral agreements and law alliances do not offend Rule 5 of the RPC. What the rule forbids is a partnership in the strict sense (e.g. Musa & Smith) being set up in the country by a Nigerian lawyer and a foreign lawyer. There have also been instances of some companies in Nigeria appointing foreign lawyers as the head of legal department or director of legal; and while it has not been challenged in court, the Nigeria Bar Association (NBA) has warned against that particular practice. It maintains that such practice runs contrary to the provisions of the LPA and has threatened to take action against defaulting companies.

It therefore means that whatever minor liberalization of trade in legal services there is in Nigeria is not as a result of any international agreements. The country has not liberalized legal services under the GATS and the regional bloc that it belongs to, namely ECOWAS, also doesn't have any specific framework for cross-border trade in legal services. Even most of the free trade agreements that the country has signed majorly focus on goods and not services. This current state of affairs severely limits the ability of foreign lawyers to practice in Nigeria. It also limits the ability of

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[17] *(2016) 4 CLRN 20-44 at 33*

[18] Olasupo Shasore 'Representation at Arbitration Proceedings compared to Litigation – The Recent Trend in Shell v FIRS' (January 2017) <https://www.alp.company/sites/default/files/Representation%20at%20Arbitration%20Proceedings%20compared%20to%20Litigation%20.pdf> accessed 26 August 2023.

Nigerian lawyers to be able to practice in other countries, without first going through difficult routes such as requalification etc. This restricts what Nigerian lawyers can achieve in other countries. Nigerian law firms are similarly affected as they have to rely on law alliances and bilateral agreements with other law firms in other countries to be able to carry out any form of practice in those countries.

4. Implications of the AfCFTA PTS for the Legal Profession in Nigeria

The AfCFTA PTS carries with it the strong possibility that the legal profession in Nigeria will be gradually liberalized to make it easier for foreign lawyers to be able to practice in the country. However, this will not happen overnight but in a progressive manner. Greater access will likely first be granted to lawyers from other ECOWAS member countries while barriers may still be maintained for lawyers from other AfCFTA states that do not fall within ECOWAS. These barriers may be eliminated over time as negotiations take place between Nigeria and other African countries. For lawyers from outside the continent, the situation may not change much from what is presently obtainable until Nigeria agrees to liberalize legal services under the GATS or under the terms of a trade agreement with a particular country. At the starting stage, which is the ECOWAS stage, it will be up to Nigeria to decide the particular modes of supply of legal services that it wants to liberalize (i.e. offer national treatment and market access) for fellow ECOWAS members and the terms and conditions for doing so. Now, due to their inherent nature, it is difficult for a country to regulate mode 1 (cross-border supply – a Nigerian client consulting a Ghanaian lawyer online) and mode 2 (a Nigerian travelling to Ghana to consult a lawyer there) supply of legal services. Nigeria as a country can hardly clamp down on the activity described in Mode 1 above or forbid their citizens from embarking on such a trip as contained in Mode 2. Therefore, where Nigeria can and is currently exercising its regulatory powers is in Modes 3 (foreign law firms cannot open offices in the country) and Modes 4 (foreign lawyers cannot practice in the country without prior authorization). The country can therefore decide to grant market access and/or national treatment in any of the modes and state the terms and conditions upon which they are doing so. The country can also include additional commitments on such issues as professional qualifications. Nigeria can for instance stipulate that anybody who has been admitted to the bar to practice as a lawyer in any ECOWAS country can also practice law in its territory on a temporary basis without needing to get a warrant from the Chief Justice of Nigeria. Nigeria will also have to define legal services in its schedule of commitment because its commitments will apply only to such a definition. The country can for instance choose to define legal services as "only advisory services on the law of the country where the foreign lawyer qualified". It means that the foreign lawyer will have to restrict his practice to only offering advice in that area of law. He or she cannot offer advice on transactions solely involving Nigerian law or appear before Nigerian courts as an advocate.

However, it is not going to be enough for Nigeria and other ECOWAS member states to just make commitments in legal services in their schedule of commitments. The bloc will have to implement multiple regulations to enable cross-border legal practice. The regional bloc can borrow a leaf from the sub-regional bloc under it, WAEMU, and implement regulations providing for the free movement of lawyers within the region as well as regulations on rules of professional conduct that will apply to all the lawyers in the region or specifically to lawyers in the region involved in cross-border legal practice. This will address the problem of double deontology, a situation where lawyers are subject to two different sets of rules of professional conduct that may invariably conflict with each other. Another good example for ECOWAS to follow is the EU. The bloc has facilitated cross-border legal practice by passing multiple regulations including the Lawyers' Services Directive of 1977, the Lawyers' Establishment Directive of 1998, and Recognition of Professional Qualifications Directive 2005. Beyond passing regulations, Nigeria and other

ECOWAS member states must implement mechanisms for securing adherence by state parties. The ECOWAS treaty already provides that any regulation or similar instrument passed is to be legally binding however there is a failure to clarify the method of implementation and this has been a major challenge.[19] The regional body must now address this. For instance, in the EU, treaty law, and other legal instruments are directly applicable with no need for any domestication and they also supersede domestic laws whenever there is a conflict. Also, treaty law and other legal instruments have to be enforced by national courts. This is a good approach for Nigeria and other ECOWAS member states to follow and they can amend the community's treaty to secure this.

Drawing from the foregoing, the liberalization journey will be a slow one but change is well on its way for the legal profession in Nigeria and it will be a bag of mixed fortunes. Making it possible for foreign lawyers to practice in the country will mean more competition for local lawyers and law firms. Nigeria is one of the largest economies in Africa and still attracts a healthy dose of foreign investments each year.[20] Many foreign law firms and lawyers want to get involved in the transactions underpinning these investments and will gladly take any opportunity that makes that possible. If they enter the country's legal space, they will provide stiff competition to, and may even displace some Nigerian law firms due to their greater financial power, global reach, expertise, network, etc. Even the United Kingdom (U.K.) has identified Nigeria as a profitable market for the export of its legal services due to the great opportunities that exist in the country. It has therefore sought for partnerships between law firms in Nigeria and the United Kingdom.[21] Such efforts have been on since 2018 and since then, opportunities in the continent and Nigeria specifically have further grown. What's more, the AFCFTA regime promises increased economic growth and more investments in Africa, and foreign lawyers and law firms will want to get in on the whole deal meaning even more competition for the local firms. Law firms in Nigeria and the continent at large are not unmindful of the prospect of intense competition. In 2020, Africa Legal surveyed 50 top law firms in the continent out of which 12 were Nigerian law firms.[22] 86% of the correspondents believed that there was an increase in the level of competitive pressure in the African legal market over the last five years. While some respondents believed that the competition was healthy and to the benefit of clients, others pointed out inherent threats such as the size of competitors already in the African market and the possibility of its quadruple growth over the next five years especially considering the snail-paced growth of African Law firms in comparison.

Therefore, the threat is real but one positive aspect is that any liberalization will be gradual and start from the ECOWAS level. There is no chance of EU and American lawyers practicing in Nigeria anytime soon. Furthermore, the liberalization at the ECOWAS level will be quid pro quo in form. As Nigeria allows ECOWAS lawyers and law firms to come in, Nigerian lawyers and law firms stand in pole position (both in terms of numerical strength and skills base) to access the legal market of other West African countries. It has been argued that Nigeria has such a large number of lawyers that it can flood the entire African legal market and such a proposition has statistical support: A 2024 report shows that the entire West Africa has 90,000 lawyers and 80,000 of those are from Nigeria alone.[23] This is simply staggering and the outcome doesn't change much when

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[19] Iwa Salami "Legal and Institutional Challenges of Economic Integration in Africa" (2011) 17(5) ELJ 667, 682.

[20] World Investment Report 2024 lists Nigeria amongst the top ten African countries in terms of foreign direct investments attracted.

[21] Theodora Kio-Lawson, 'UK Legal Services Trade Mission Seeks Partnership with Nigerian Lawyers' *BusinessDay NG* (11 April 2019) <https://businessday.ng/news/legal-business/article/uk-legal-services-trade-mission-seeks-partnership-with-nigerian-lawyers/> accessed 13 November 2023.

[22] Changing Needs, Growing Expectations (Africa Legal, 9 December 2020) <https://www.africa-legal.com/news-detail/changing-needs-growing-expectations/> accessed 30 September 2023.

[23] Legal Services and Activities in West Africa 2024 (Research and Markets, August 2024) < https://www.researchandmarkets.com/reports/6005622/legal-services-activities-in-west-

the comparison is with Nigeria's closest competitors in the African legal services market. For instance, South Africa has about 30,000 practicing attorneys which is still less than half of Nigeria's offering. Beyond the numerical strength, Nigeria also boasts some of the top indigenous law firms on the African continent with only South Africa surpassing it. A 2021 ranking of the top 50 law firms in Africa shows that 13 Nigerian law firms made the list; while 15 on the list are South African.[24] The number increased to 16 for South Africa in 2022 while Nigeria reduced to about 11 which is still respectable.[25] Given this reality, the country's law firms and lawyers are naturally positioned to take advantage of the AfCFTA to gain a large share of the West African market. From there, they can build the expertise needed to penetrate the continent as well as the international legal services industry.

The potential liberalization of the legal profession in Nigeria will admittedly have far-reaching effects on the regulation of the profession however this can be tackled by amending current rules of professional conduct or working with other ECOWAS member states to implement unified regional rules. For instance, lawyers in Nigeria are still barred from promoting their practice through newspaper ads, radio and television ads, handbills, etc.[26] This could create a conflict if a lawyer from a jurisdiction where such a practice is allowed happens to requalify in Nigeria. One way of solving this problem is following the European Union (EU) example. EU countries maintain their national code of conduct for their lawyers. They have also adopted the model code of conduct developed by the CCBE to apply to lawyers involved in cross-border practice. Nigeria and other ECOWAS partners can also go this route.

5. Conclusion

The ongoing talks to liberalize trade in services amongst African countries under the AfCFTA regime means that there is now a strong possibility that the legal profession in Nigeria, which has long been closed off, will finally be opened for the participation of foreign lawyers. This opening up will take several years to achieve and will be accomplished in a progressive manner but change is certainly on the way and legal practitioners as well as regulatory bodies have to get set for that change. There is a need to reorganize legal education in Nigeria to bring it up-to-date. Emphasis should be placed on in-demand areas such as international trade law, dispute resolution mechanisms, corporate law, taxation, etc. Many companies and individuals will come seeking investment opportunities under the AfCFTA regime and as such, the country must equip its future lawyers with the expertise to be able to provide legal services to these investors; be it drafting trade agreements, conducting due diligence for new markets, navigating complex investment regulations, figuring out tax implications, etc.[27] Language proficiency should also be emphasized as well. Prospective lawyers in the country should be required to learn one or two foreign languages, such as French, Arabic, Chinese, etc., which will aid them in cross-border practice. It

africa?utm_source=GNE&utm_medium=PressRelease&utm_code=lk6hn7&utm_campaign=2000794+-+West+Africa+Legal+Services+Industry+Report+2024%2c+with+Profiles+of+41+Companies+Including+DLA+Piper+and+Dentons%2c+ENSafrica%2c+Bowmans%2c+and+West+African+Firms+such+as+Templars%2c+AELEX+and+Asafo&utm_exec=carimspi> accessed 5 May 2025.

[24] Ranking was done by ALM Media Company in conjunction with Africa Legal. 2021 ranking of the top 50 law firms in Africa is available at <https://www.event.law.com/legalweek-africanlegalawards/africa-top-50 > accessed 30 September 2023.

[25] 2022 ranking of the top 50 law firms in Africa is available at <https://www.law.com/international-edition/2021/09/14/ranked-the-biggest-law-firms-in-africa/#:~:text=South%20Africa's%20ENSAfrica%20has%20topped,and%20geographical%20spread%20across%20Africa

[26] Rule 39 of RPC 2023.

[27] Chinenye Uwanaka, 'The African Continental Free Trade Agreement (AfCFTA) and the African Lawyer: The Legal Profession under the AfCFTA' (Annual African Bar Association Conference, Pretoria, August 2023).

is a no-brainer that an international client will feel more at home with a highly-skilled lawyer who can speak their language.

Beyond properly equipping future lawyers, there is also a need for capacity building for the present crop of lawyers in the country. They have to keep up with newly emerging areas of law as well as industry best practices relevant to their clients. The Nigerian Bar Association (NBA) has an indispensable role to play and one of them is in the area of Continuing Legal Education (CLE). The NBA has been actively organizing CLE programs in recent years but there should be more of a standardized approach to it and not just the sporadic training opportunities that currently exist. There is also a need for a monitoring mechanism to ensure that lawyers comply with the mandatory CLE program required of them each year. This will enable lawyers to update their knowledge and gain new skills, all of which would improve the quality of legal services they provide to their clients.[28]

The NBA should also be an active participant as Nigeria finalizes its specific schedule of commitments. They have to make inputs to ensure that whatever deal the country finally signs protects the interests of lawyers in the country. The NBA and the Legal Practitioners Disciplinary Committee (LPDC) also have to be proactive in dealing with cases of unethical conduct by lawyers. Effectively tackling such will give prospective clients the confidence to work with lawyers and law firms in the country. It will also encourage foreign lawyers and law firms to come in and collaborate with their Nigerian counterparts.

Finally, Nigeria can also get ahead of the competition by changing its statutory provisions to make it possible for foreign law firms to be allowed to open offices in Nigeria in partnership with Nigerian law firms. Such foreign law firms with branches in Nigeria can employ the country's lawyers. Also allowing that partnership between Nigerian lawyers and foreign lawyers will enhance the ability of Nigerian lawyers and law firms to build the necessary network and expertise to dominate the African legal market and break into international markets. Already, international law firms see Nigeria as a strategic hub through which they can operate and gain entrance into the lucrative West and Central African markets. [29] They are only being held back by the restricted regime and once some of these restrictions come down, they will only be too happy to come in to the benefit of all parties.

The AfCFTA PTS carries it with both threats and opportunities for the legal profession in Nigeria but the former does outweigh the latter and the best strategy is to be prepared to be able to take advantage of it.

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[28] Daniel K. Kip, 'Contemporary Issues Affecting the Legal Profession in Africa' (Annual African Bar Association Conference, Pretoria, August 2023).

[29] Law Firms Scramble for Africa (Crasner Consulting, 18 October 2016) <https://www.crasnerconsulting.com/news/law-firms-scramble-for-africa/> accessed 1 August 2023.