



ASSESSMENT OF THE TRADE IN SERVICES REGIME IN SIERRA LEONE

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CONTENTS

ABBREVIATIONS

1.0 INTRODUCTION AND STATEMENT OF UNDERSTANDING OF THE ASSIGNMENT

2.0 PURPOSE OF THE ASSIGNMENT

3.0 METHODOLOGY AND APPROACH TO THE ASSESSMENT

3.1 Preliminary Discussions with Ministry Trade officials

3.2 Review of literature

3.3 Key Informant Interviews

4.0 DATA ANALYSIS FRAMEWORK

4.1 Data Analyses Framework

5. FINDINGS

5.1 Official Definition of Tradable Services in Sierra Leone

5.2 The Trade in Services Landscape

5.3 The Trade in Services in the Five Priority Sectors

5.4 The Governance of Trade in Services

5.4.1 International Trade Agreements and Economic Cooperation Frameworks

5.4.2 National Governance of Trade

5.5 The Regulatory Regime

5.5.1 The Laws and Statutory Regulations

5.5.2 Policies Governing Trade in Services

5.5.3 Sector Specific Legislations and Policies

5.6 Implications for Sierra Leone's readiness to participate in the AfCFTA in the area of Trade in Services

6. ANNEXES

6.1 List of Bibliography

ABBREVIATIONS AND ACRONYMS

AfCFTA- Africa Continental Free Trade Area

ECOWAS- Economic Community of West African States

GATS- General Agreement on Trade in Services

GATT- General Agreement on Tariffs and Trade

GST- Goods and Services Tax

ICT- Information Communication Technology

ISPs- Internet Service Providers

MDAs- Ministries, Departments and Agencies

MNOs- Mobile Network Operators

MTI- Ministry of Trade and Industry

ToR- Terms of Reference

WTO- World Trade Organisation

1.0 INTRODUCTION

The Sierra Leone Parliament ratified the Africa Continental Free Trade Area Agreement (AfCFTA) on the 7th November 2018; and the deposited its instrument of ratification with the African Union on the 29th April, 2019. As part of its overall continent-wide economic development agenda, the AfCFTA desires to foster the Trade in Services among other things, through enhanced competitiveness of services, economies of scale, reduced business costs, enhanced continental market access, improved allocation of resources; and promotion of domestic and foreign investment. The AfCFTA seeks to progressively liberalise trade in services across the African continent on the basis of equity, balance and mutual benefit, by eliminating barriers to trade in services.

The AfCFTA contains expressed determination to establish a continental framework of principles and rules for trade in services with a view to boosting inter-Africa trade and promoting economic growth and development.¹ The AfCFTA obligates participating countries to pursue efforts to liberalise the African services market through elimination of barriers and restrictions; towards an open, rules-based, transparent, and inclusive single services market on the continent.² It means that countries that are signatories to the Africa Continental Free Trade Area agreement, including Sierra Leone would have to adjust their trade regimes and practices to accommodate the requirements regarding the Trade in Services.

Sierra Leone's preparations for effective participation in AfCFTA is providing opportunity for the Ministry of Trade and Industry to do a progressive re-set on its work around Trade in Services. As part of the progressive re-set, Sierra Leone has developed a regulatory cooperation framework and submitted its specific commitments in trade in services in the 5 priority areas identified by the African Continental Free Trade Area; in line with the Economic Community of West African States (ECOWAS). As part of initial response towards preparing the country for participation in the AfCFTA, the Ministry with support from GIZ undertook a review of Sierra Leone's Trade in Services study; meant to the negotiations that were going on at the time.

The assessment of the Trade in Services regime on which this report is produced is a continuation of the preliminary efforts by Sierra Leone to adjust the country's trade regimes and practices to accommodate the requirements of the Africa Continental Free Trade Area regarding the Trade in Services. Whereas the initial review of Sierra Leone's Trade in Services funded by GIZ was to support Sierra Leone's AfCFTA negotiations, this round of assessment is meant to inform the country's preparedness to participate in the Agreement; in the area of Trade in Services. Essentially, the report of the assessment will

¹ The Protocol on Trade in Services in the Agreement Establishing the African Continental Free Trade Area.

² Ibid.

hold the evidence that would inform the options that the Ministry of Trade and Industry can consider in re-setting work around Trade in Services; pursuant to adjusting the country's Trade in Services regime and practices to accommodate the requirements of the Africa Continental Free Trade Area.

2.0 PURPOSE OF THE ASSIGNMENT

The purpose of this assignment was to avail the Ministry of Trade and Industry, a report that attests the status of the Trade in Services in dimensions including a clear definition of the sector, evidence of growth or stagnation of the sector, particularly in the 5 priority services areas; and the gaps and opportunities in the regulatory regimes; with an ultimate aim to inform the progressive adjustment of the country's Trade in Services regime and practices to accommodate the requirements of the Africa Continental Free Trade Area.

3.0 METHODOLOGY AND APPROACH TO THE ASSESSMENT

The Consultant's approach to the assessment consisted of methodologies indicated in the Terms of Reference (ToR); and an extra layer in the form of preliminary exchanges between the consultant and key official at the Ministry of Trade and Industry.

3.1 Preliminary Discussions with Ministry of Trade officials

The assessment started with preliminary discussions between the consultants and the key officials at the Ministry of Trade and Industry; generally meant to reach common understanding of the scope of assignment, provide guidance information that supported other aspects of the assignment, agree on conceptual matters, quality controls, and fieldwork logistical support; among any other areas that may be relevant.

3.2 Literature Review

At one level, international trade agreements and economic cooperation instruments relevant to this assessment were reviewed. These included the AfCFTA and its constitutive Protocols; the General Agreement on Trade in Services, the Economic Community of West African States Trade Liberalisation Scheme, the World Trade Organisation's Agreement on Government Procurement, and the Agreement Establishment the World Trade Organisation. The AfCFTA was reviewed to obtain the specifics of the precepts regarding Trade in Services that Sierra Leone's laws and policies must not contradict or must accommodate. The other international trade agreements and

economic cooperation instruments were reviewed to glean any overarching overlapping issues pertinent to the assessment of the Trade in Services regime. At a second level, the laws and policies pertaining to trade generally in Sierra Leone, were reviewed to note and highlight the areas of incongruence with the spirit or letter of the AfCFTA and other agreements to which Sierra is a party.

3.3 Key Informant Interviews

Selected key informant interviews were conducted with officials of Ministries, Departments, and Agencies involved with trade issues; and professionals and business people. These interviews were done to generally obtain qualitative insights and anecdotes directly or collaterally relevant to the assessment, and the work of Ministry of Trade and Industry.

4. DATA ANALYSES FRAMEWORK AND THE CONTENTS OF THE REPORT

4.1 Data analyses framework

Data was collected and analysed with a focus on supporting the main outcome desired by Ministry of Trade and Industry. The main outcome desired was a report that attests the nature of the Trade in Services regime in Sierra Leone; regarding alignment with the spirit and objectives of the Protocol on Trade in Services in the AfCFTA; to inform the progressive adjustment of the country's Trade in Services regime and practices to accommodate the requirements of the Africa Continental Free Trade Area. Thus, the report documented the trade in Services Landscape; trends in the Trade in Services in the Five Priority Sectors, the Governance of Trade in Services; including International Trade Agreements and Economic Cooperation Frameworks pertinent to the assessment, national governance of trade, the Regulatory Regime, the Laws and Statutory Regulations, Policies Governing Trade in Services, and sector specific legislations and policies. From the aforementioned, an analyses was done of the implications for Sierra Leone's readiness to participate in the AfCFTA in the area of Trade in Services; including the key regulatory issues that are facilitating any expansion in the Trade in Services; and that may pose challenges to Sierra Leone's effective AfCFTA participation. Lastly, the report made evidence-based recommendations meant to guide the Ministry of Trade and Industry in the progressive adjustment of the country's Trade in Services regime and practices to accommodate the requirements of the Africa Continental Free Trade Area; and make the country's effective participation easier.

5.0 FINDINGS

5.1 Official Definition of Tradable Services in Sierra Leone

There is no documented official operational definition of trade in services in Sierra Leone. The Ministry of Trade uses an approach that sees any service that is not banned by law as a tradable service. For the purposes of international transactions not constrained by anti-liberalisation considerations or effects, Government assesses Trade in Services by the standard “mode of supply” criteria that emerged from the Uruguay round of trade negotiations, to identify tradable services. These are Mode 1: Cross-border supply; Mode 2: Consumption abroad; Mode 3: Commercial presence; and Mode 4: Presence of natural persons.

5.2 The Trade in Services Landscape

The areas of services that trade is taking place in Sierra Leone are broad; as would be expected of any free-market economy. The areas include banking, insurance, hospitality, entertainment, medical, legal, engineering, engineering and architecture, advertising, salons, transportation, and technical repairs.

The trade in services sector has been growing over the years; as all key informants interviewed agreed. The old and traditional services areas including banking, insurance, hospitality, entertainment, legal, transportation, engineering, and medical among others are part of the growth of the services sector over the years. The growth of the Trade in Services however, is further evidenced in the emergence of newer services areas. These newer areas today include Information Communication Technology (ICT) software, courier services, environmental control consultancy, Internet Service Providers (ISPs), business management consultancy, and mobile money and payment services.

5.3 The trade in in services in the five priority sectors

The transport sector in Sierra Leone consists of road, sea, and air sub-sectors. Road transport sub-sector is by far the largest; by user numbers and number of businesses. Informal operators running commuter buses and taxis, and haulage trucks dominate the road transport sub-sector. Formal operators of commuter buses are very few; and only two were identified for the purposes of this study. Road haulage however, has at least two dozen formal transport operators. Sea transport in the country consist of international shipping, and in-country passenger boat services. There are no internal air transport businesses in the country.

The financial services sector consists of banks, insurance and brokerage activities, audit and accounting services, and mobile money companies. There are fourteen banks in the country; two of which are Government-owned. Government owns one of the eight insurance companies in the country. The emergence of mobile money services and the spread of community banks over the last ten years mark a significant development in the nature and scope of the financial services sector in Sierra Leone today.

Telecommunications services as business began growing in Sierra Leone in 2002 when the country's first cellular network operator opened that year. The privately owned company known as Mobitel, was soon followed a year or two later by two other GSM Mobile Network Operators (MNOs). The country now has three MNOs, at least six Internet Service Providers (ISPs), and one fiber optic backbone operator. The telecommunications has shown the vibrancy in growth; with the emergence of thousands of Mobile Money Agents, and hundreds of Internet Cafes.

The tourism sector continues to show promise; but has not seen much activity that would indicate significant growth. Official records show that tourist arrival numbers have been moving up; although all key informants interviewed expressed dissatisfaction with the growth; based on the country's potentials. A clear pointer that the tourism sector is seeing growth is however, the increase in the number of new hotels and resorts around the country. Tourism officials say that in each of the three major cities of the country, room numbers have trebled over the last ten years.

The business services sector in the country continue to be dominated by the traditional professions namely; medicine, law, engineering, and accounting and audit. There are no official records by with aggregated data that attests the buoyancy, growth, stagnation or otherwise of the business services sector in the country. According to industry insiders and Ministry of Trade officials however, certain trends are discernible in the business services sector. For accounting and audit services, two foreign firms that dominated the sector are no longer high profiled. Local firms are increasingly representing international firms or businesses are using the services of non-Sierra Leone domiciled firms. There has been no change in the ownership of legal services firms; which remain the preserve of local lawyers. Engineering services which had always had significant presence of foreign providers; a trend which has remained the same. It is in the area of medical services that significant change is being witnessed over the past decade. Medical services used to be traditionally provided by either Government-owned hospitals or non-profit, faith-based organisations. Private, for-profit medical services by foreign nationals and foreign firms were very rare. Over the last decade, private, for-profit medical services by foreign nationals and foreign firms have been growing; with a couple of full-fledge foreign-owned hospitals now in the country.

5.4 The Governance of Trade in Services

5.4.1 International Trade Agreements and Economic Cooperation frameworks

International trade agreements and economic cooperation frameworks constitute one layer of Sierra Leone's trade governance architecture. Sierra Leone (along with Guinea, Liberia and Cote d'Ivoire) is a member of the Mano River Union, established in 1971, with an objective to "accelerate the economic growth, social progress and cultural advancement of our two countries".³ In May, 1975, Sierra Leone became a founding member of the Economic Community of West African States ("ECOWAS"). ECOWAS

³ Cote d'Ivoire joined the MRU in 2008.

was established to create economic cooperation and integration between its member states. Sierra Leone ratified the ECOWAS's Trade Liberation Scheme which provides for products regarded as being of Community origin to be traded across borders free of duty free, and without quantitative restrictions. In October 2013, ECOWAS member states adopted the Common External Tariff; which had since been ratified by Sierra Leone. Sierra Leone started implementing the Common External Tariff on the 1st January 2017. Sierra Leone was a party to the General Agreement on Tariffs and Trade until, the body was replaced by the World Trade Organisation (WTO). Sierra Leone joined the WTO on 23 July, 1995.

5.4.2 National Governance of Trade

The Ministry of Trade and Industry is the main Government agency charged with responsibilities to facilitate the sustenance and growth of trade in goods and services in Sierra Leone. The Ministry's primary responsibilities in this regard include policy formulation, representation of Government at international fora on trade-related matters, and supervision of governmental agencies under its remit that handle specific issues relating to trade. The Ministry of Trade is the representative of Government of Sierra Leone, with direct charge for facilitating the implementation of the provisions under the AfCFTA Agreement.

The Corporate Affairs Commission, and the Office of the Administrator and Registrar General are the two State agencies for business incorporation services. There is a Government institution for promoting investment and export known as the Sierra Leone Investment and Export Promotion Agency (SLIEPA). A Public Private Partnership (PPP) Unit exists to handle joint-ventures by Government and the private sector. In 2022 a new agency known as the National Investment Board was established; which now coordinates synergy across all governmental agencies for the administrative facilitation of entry and development of businesses (foreign and local) in Sierra Leone; and improvement of the business climate.⁴

5.5 The Regulatory Regime

5.5.1 The Laws and statutory regulations

The overarching and basis framework laws governing the Trade in Services in Sierra Leone are divided into two namely; business incorporation and operation; and investment promotion. The Companies Act 2009, stipulates how businesses of all nature are incorporated to obtain licenses to do operate in Sierra Leone; and also, lays down the rules of operation. The Investment Promotion Act 2004, and the National Investment Board Act, 2022 are the two legislation with expressed purpose to promote and attract private domestic and foreign investment for the development of production and value-adding activities, improve exports and generally create an environment conducive to private investment. Businesses are further regulated by sub-sector specific legislations; which are discussed elsewhere in the report.

⁴ The National Investment Board Act, 2022.

5.5.2 Policies governing trade in Services

In Sierra Leone, many trade sub-sectors have specific policies governing them. As example, there is a Cocoa and Coffee Policy, the National Rice Development Strategy, and the Sierra Leone Health Policy. In 2003, Government adopted the National Transport Strategy and Investment Plan; which had now been replaced by the Integrated Transport Policy, Strategy and Investment Plan, 2013. Sierra Leone however, has a general national Trade Policy, which broadly defines Government approach to towards promoting priority sectors, enabling Sierra Leone's products to compete freely in the regional market; strengthen collective bargaining with the rest of the world; and provides for the protection of consumer rights and the protection of the intellectual property rights; among other issues. Tourism and ICT as two of the five priority areas under AfCFTA also, happen to be among the priority sectors indicated in the Sierra Leone Trade Policy.

Policies generally do not have the effect of law, but are there to guide State officials and businesses regarding the State's orientation, objectives, strategies, and expectations around different goods and services areas that they apply to. In these regard, the various trade-related policies in the country also offer a window to discern Sierra Leone's trade in Services liberalization posture. In this regard, the assessment found out that orientation, objectives, strategies, and expectations expressed in policies around different goods and services areas, generally support the spirit of the AfCTFA Protocol on Trade in Services. Essentially, there are no

5.5.3 Sector-specific legislations and policies

Financial services

A number of basic laws govern the establishment and operations of financial services in Sierra Leone. These include the Banking Act 2019; the Borrowers and Lenders Act 2019, Deposit Protection Fund Act 2022; the Arbitration Act 2022, the Bank of Sierra Leone (Amendment) Act 2023, and the Insurance Act, 2016. The dates of these legislations show that efforts to modernise the financial services sector are recent; at the heart which are objectives to prevent bank failures, protect depositors, and promote financial Inclusion.

The modernization of the financial services sector has seen the introduction of the National Payment Systems Oversight Regulations 2022, the National Electronic Transactions Act 2019, and the Banking (Amendment) Act 2023 which makes provision for transactions in other currencies. There are no aspects of the laws that have emerged that seek to place limitations on its market access in respect to the "Commercial Presence" and the "Presence of Natural Persons" who are non-citizens of Sierra Leone; and has also reserved its right to place limitations on national treatment with reference to the "Presence of Natural Persons" who are non-citizens of Sierra Leone wanting to provide a service within its jurisdiction.

Telecommunications

The primary law governing the establishment and operations of telecommunication services in Sierra Leone is the Telecommunications Act 2006. The Act established the National Telecommunications Commission and to provide for the licensing and regulation of telecommunications operators and for the promotion of universal access to basic telecommunication services, fair competition for the benefit of investors in, and the users of telecommunication networks and services, and to improve the national, regional and global integration of Sierra Leone in telecommunications and to provide for other related matters.

In 2020, Parliament enacted the Cybercrime Act, 2020; which provides for the prevention of the abusive use of computer systems; the timely and effective collection of electronic evidence for the purpose of investigation and prosecution of cybercrime; the protection of Critical National Information Infrastructure; and the facilitation of international cooperation in dealing with cybercrime matters and to provide for other related matters.

The primary legislation for the telecommunication sub-sector generally enhance access to Sierra Leone for foreign investors, impose no restrictive barriers to their entry and growth; and promote fair competition among businesses. In fact, it was the Telecommunications Act 2006 that stopped the state's monopoly over the sector; and opened the space for foreign participation. Today, all the MNOs and a large number of ISPs are foreign-owned. There are no aspects of the laws that have emerged that seek to place limitations on its market access in respect to the "Commercial Presence" and the "Presence of Natural Persons" who are non-citizens of Sierra Leone; and has also reserved its right to place limitations on national treatment with reference to the "Presence of Natural Persons" who are non-citizens of Sierra Leone wanting to provide a service within its jurisdiction. It should be noted in fact, that Sierra Leone was one of the founding members of ECOWAS and has ratified protocols and domesticated protocols, relating to telecommunications. The Telecommunications (Amendment) Act 2009 for instance expressly sought to harmonises best practice and international roaming in line with ECOWAS.

Transportation

There are different primary legislations for the various sub-sectors of the transport sector. The primary legislations for the roads sub-sector are the Sierra Leone Road Transport Act, the Sierra Leone Road Safety Authority Act 1996; and the Road Traffic Act, 2007. At the time of the assessment, a new Sierra Leone Public Transport Authority bill was been readied for passage into law. Act 2022For air transport, the primary legislations are the Civil Aviation Act, 2019; and the Sierra Leone Airport Authority Act, 1998. The primary legislations for the sea and water transport sub-sector are Sierra Leone Maritime Administration Act, 2000; and the Merchant Shipping Act, 2003.

The primary legislations for the transport sub-sector generally enhance access to Sierra Leone for foreign investors, impose no restrictive barriers to their entry and growth; and

promote fair competition among businesses. There are no aspects of the laws that have emerged that seek to place limitations on its market access in respect to the “Commercial Presence” and the “Presence of Natural Persons” who are non-citizens of Sierra Leone; and has also reserved its right to place limitations on national treatment with reference to the “Presence of Natural Persons” who are non-citizens of Sierra Leone wanting to provide a service within its jurisdiction. Since 2022, steps have been taken to stop the State's direct participation in the provision of road transport services; with the establishment of the Sierra Leone Public Transport Authority. The Sierra Leone Road Transport Corporation which had provided the State's participation in direct bus transport services will cease to exist when the Sierra Leone Public Transport Authority bill 2023 is passed into law soon. The end of the existence of SLRTC will mean that road transport services will be an entirely private sector space.

Transport is however is one of those sectors where the country's Local Content laws apply generally for certain services. Invariably, Local Content laws hold discriminatory intents. In this regard, a piece of legislation that however stands out as potentially inimical to the liberalisation spirit of the AfCFTA's Trade in Services Protocol is the Sierra Leone National Carrier Agreement Ratification Action 2012. The Sierra Leone National Carrier Agreement Ratification Action 2012 ratified a Joint Venture Agreement relating to the setting up and operations of Sierra Leone National Carrier Limited. The legislation grants the state-owned company the status of the sole National Carrier of the Republic of Sierra Leone. The Act reserved to the Sierra Leone National Carrier Limited the right to perform at its discretion the maritime transportation of forty per cent of the total value of cargo exported out of, and imported into, Sierra Leone.

Tourism

The basic laws for the tourism sector in Sierra Leone are the National Development of Tourism Act, 1990. At the time of the assessment work was in progress for the enactment of a new and comprehensive primary legislation for the tourism sector. There are however, other laws for other sub-sectors like environmental management, gaming and casinos, and alcoholic beverages production, sales and consumption that bear on the scope of liberalisation in the tourism sector.

The legislations and policies for the tourism sub-sector generally seek to enhance access to Sierra Leone for foreign investors, and therefore, impose no restrictive barriers to their entry and growth; and promote fair competition among businesses. Tourism is however, is one of those sectors where the country's Local Content laws apply generally for certain services.

Business Services

Business services including banking, accounting and audit, medical practice, legal and engineering services are regulated at two broad fronts. First, there are business incorporation and registration requirements as per the Companies Act 2009. Second, there is professional qualification attestation and licensing regulations; as per the respective laws for the respective trades associations. Regarding professional

qualification attestation and licensing regulations, the accounting and auditing professionals are governed by the Institute of Chartered Accountants of Sierra Leone Act, 1988 and are regulated by the Council of the Institute of Chartered Accountants in Sierra Leone. The governing law for legal practice is the Legal Practitioners Act, 2000 as amended by the Legal Practitioners (Amendment) Act 2004, Legal Practitioners (Amendment) Act 2005 and the Legal Practitioners (Amendment) Act 2015. The provision of Architectural services is governed by the Architects Act, No.7 of 1986; which established the Architects Registration Council as a registration and regulatory body.

The governing law for the practice of engineering services is the Professional Engineers' Act, 1990, which makes provision for the registration of Professional Engineers and the regulation of the practice of Engineering in Sierra Leone; through the Professional Engineers Registration Council. Medical practice and dental surgery services are governed by the Medical Practitioners and Dental Surgeons Act 1994 and the Medical Practitioners and Dental Surgeons Act (Amendment) Act No.1 of 2008. The Medical Practitioners and Dental Surgeons Act 1994 established the Medical and Dental Council as the regulatory body.

Generally, business incorporation and registration requirements as per the Companies Act 2009 do not have anti-liberalisation effects; or effects inimical to foreign participation in Trade in Services. It is professional qualification attestation and licensing regulations; as per the respective laws for the respective trades associations that raises anti-liberalisation issues. The assessment however, did not come across any element in the professional qualification attestation and licensing regulations for the different business areas with intent or purpose to confer advantage to locals over foreign competition; except for medical practice. Foreign medical practitioners can only be registered on a temporary register; but must fulfill the registration requirement of those applicable to Sierra Leonean citizen who are registered in the permanent register. And whereas the annual registration fee for a qualified Sierra Leonean medical practitioner or a dental surgeon is about fifty United States dollars, the annual registration fee for a qualified foreign medical practitioner or dental surgeon is six hundred United States dollars.

5.6 Implications for Sierra Leone's Readiness to Meet the AfCFTA Commitments

AfCFTA affirms Sierra Leone's Trade in Services liberalization efforts under prior economic cooperation regimes

AfCFTA primarily seeks trade liberalisation within its member states. In furtherance of this overall aim, the AfCFTA recognises that nearly all member-states are already members of other regional economic blocks. Article 19 of the AfCFTA accepted that these economic blocks may have already secured a higher level of cooperation and integration amongst themselves; which should be maintained.⁵ For Sierra Leone therefore, the provisions of Article 19 therefore ensures, that the country's existing commitments under

⁵ Regulatory Assessment of Sierra Leone in Support of AfCFTA Negotiations. September, 2019. A.A. Betts Priddy.

ECOWAS, MRU, and WTO will be complemented by AfCFTA's Protocol on Trade in Services. As further recognition of prior liberalization efforts to which countries like Sierra Leone had committed, AfCFTA, seeks to pursue services trade liberalisation in line with Article V of the General Agreement on Trade (GATS) in Services by expanding the depth and scope of liberalisation and increasing, improving and developing the export of services, while fully preserving the right to regulate and to introduce new regulations. The GATS is a treaty of the World Trade Organisation (WTO) which came into force in 1995; seeking to create a standard of reliable and predictable system of rules for trade in services; and to facilitate the progressive liberalization of services market. Sierra Leone became a member of the WTO.

Government of Sierra Leone's Reservations on the GAT Schedule of Specific Commitments remain a critical hurdle to address

The Schedule of Specific Commitments in the GATS dated 30th August 1995, entered into by Sierra Leone contains the terms that Government of Sierra Leone agreed to be bound to, with regard to a particular service activity and the agreed level of market access and national treatment that would be accorded.⁶ Government of Sierra Leone has reserved its right to place limitations on its market access in respect to the "Commercial Presence" and the "Presence of Natural Persons" who are non-citizens of Sierra Leone; and has also reserved its right to place limitations on national treatment with reference to the "Presence of Natural Persons" who are non-citizens of Sierra Leone wanting to provide a service within its jurisdiction. Sierra Leone took additional anti-liberalisation steps when the Government of Sierra Leone also reserved its right to place market restrictions on non-citizens in the services sector under the Sector-Specific Commitments section.⁷

In practice, these reservations have not had the effect of closing the space for foreign participation in any of the affected services areas. On the contrary, the swathe of new legislations for the priority sectors have had objectives to liberalise, open up and modernize. The existence of the reservations on Schedule of Specific Commitments in the GATS however, still sends the wrong signals.

Local Content promotion may contradict the liberalisation intents of the Protocol on Trade in Services in the AfCFTA

The promotion of the ownership and control of productive sectors in the economy by citizens of Sierra Leone is an expressed commitment of Government; leading to the adoption of rules that may have discriminatory effects. Sierra Leone has since 2012

⁶ Government of Sierra Leone made commitments in excess of 60 specific services. See Regulatory Assessment of Sierra Leone in Support of AfCFTA Negotiations. September, 2019. A.A. Betts Priddy.

⁷ Under the Schedule, Sierra Leone Government's commitments are divided into two (2) sections: the "Horizontal Commitments" and the "Sector-Specific Commitments". The Horizontal Commitments section states the *limitations that apply to all the sectors* included in the Schedule with reference to the four (4) modes of supply of services stipulated.

embarked on a local content promotion agenda; beginning with the adoption of the Sierra Leone Local Content Policy. Until 2016, Local Content promotion regime mostly covered few sectors. In 2016, Government passed the Sierra Leone Local Content Agency Act 2016; to provide for the development of Sierra Leone local content in a range of sectors of the economy. Transportation, maritime, aviation, hotel and tourism as the priority sectors in the AfCFTA are among those now covered by the Local Content regime. Invariably, Local Content laws hold discriminatory intents; which may contradict the liberalisation intents of the Protocol on Trade in Services in the AfCFTA.

Large swathes of services areas are stifled by the lack of regulations

There are a number of areas where services are being traded that are not regulated in the country. The absence of regulations means that there are also, many types of services that cannot be traded in Sierra Leone at the moment; with implications for international investors and international consumers of such services. The lack of regulations for certain services yields anti-liberalisation outcomes. For instance, in the tourism sector, on account of the lack of regulations, there are various categories of tourism-related adult entertainment that investors cannot venture into in Sierra Leone.

The lack of regulations for many areas of services in which trade is taking place, or trade in services could possibly take place illustrates the overall informality of the economy of the country. High levels of informal business environment are inimical to trade in services in particular. For instance, the Central Bank and the Ministry of Finance have persistently lamented the challenge of the open and black-market foreign currency trading on the streets of major cities in Sierra Leone.

Low knowledge of the AfCFTA and the Protocol on Trade in Services

It emerged in the course of the assessment that knowledge of the Trade in Services Protocol among critical public institutions is very limited. As Ministry of Trade and Industry officials confirmed, no efforts have been made to bring knowledge of the Trade in Services Protocol to critical institutions like MDAs, Parliament and the Law Officers Department. The risk thus exist that new policy and legislative actions are being taken by Government with no considerations for Sierra Leone's AfCFTA obligations. The possibility exists that may new policies and legislations may come to hold precepts that inadvertently compromise Sierra Leone's Trade in Services Protocol obligations.

6.0 CONCLUSIONS AND RECOMMENDATIONS

Conclusion

The specific objectives pursued by the AfCFTA Protocol on Trade in Services coincide with Government of Sierra Leone's own agenda and strategies for economic development through trade. These include enhancing competitiveness of services, reducing business

costs, enhancing continental market access, improving trade-related infrastructure; and fostering domestic and foreign investment. In virtually every country, the performance of the service sector can make the difference between rapid and sluggish growth.⁸ Studies have shown for instance, how countries like Senegal, Malawi, and Kenya are accelerating growth on the back of the strength of the services industry. These countries, has literature suggest made purposive investments in policy and physical infrastructure to create an atmosphere in which trade in services can thrive.

Purposive investments in policy and physical infrastructure to create an atmosphere in which private sector-led Trade in Services thrive, immanently hold strong liberalisation outcomes. Sierra Leone's trade development efforts over the past decades tell a similar story as those of Senegal, Malawi, and Kenya; in which liberalisation that foster the production and sale of services has been a major pursuit. In this regard, the country is on the right trajectory in preparedness for participation in the AfCFTA. Liberalization of trade in services in Sierra Leone however, remains an endeavor to be progressively pursued; knowing what weak links to address and what mistakes not to make.

The regulatory regime for Trade in Services in Sierra Leone supports the country's preparedness for participation in the AfCFTA. Over the last two decades, Sierra Leone has been making strategic investments towards making it easier to do business in the country. The investments in policy and legal reforms, and streamlining of business processes has seen the country's Ease of Doing Business ranking improve over the years. It is this reform environment that is yielding modern and best practice legislations and policies in line with the spirit of the Protocol on Trade in Services in the AfCFTA. All the five priority sectors of the AfCFTA including financial services, transportation, tourism, telecommunications, and business services are among those that have benefited from the reform environment. There are challenges remain however, that any progressive liberalisation of the regulatory regime must address; to maximize compliance with the Protocol on Trade in Services.

Recommendations

Address the reservations made by Government on GATS' Schedule of Commitments

Government should re-think and address the rights it reserved to place limitations on its market access in respect to the "Commercial Presence" and the "Presence of Natural Persons" who are non-citizens of Sierra Leone; and the rights it reserved to place limitations on national treatment with reference to the "Presence of Natural Persons" who are non-citizens of Sierra Leone wanting to provide a service within its jurisdiction. While, these reservations have not had the effect of dwindling or stemming foreign participation in the services sector, they still convey notions of anti-liberalisation. Re-thinking and addressing the reservations would require further learning; but with an end purpose to support the country's effective participation in AfCFTA.

⁸ Trade in Services: Using Openness to Grow.

Regulate as many services areas as possible:

As a matter of good trade governance, Government should endeavor to regulate as many services areas as possible. Regulatory regimes generally have the benefit of making it easier to do business; as they offer predictability and promote fair competition. The existence of regulations for all areas of services in which trade is taking place will convey impressions to local and foreign businesses that rules and liberalisation are the cornerstone of the business environment in the country.

Prioritise the introduction of regulation for trade in services in the tourism sector

It is recommended that Government, through MTI or the relevant agencies, introduce regulation of services within the tourism sector that are yet unregulated. The lack of regulations for certain services within the tourism sector, yields anti-liberalisation outcomes. For instance, on account of the lack of regulations, there are various categories of tourism-related adult entertainment that investors cannot venture into in Sierra Leone.

Prioritise awareness of Sierra Leone's AfCFTA obligations among critical State institutions to avert

MTI should take lead in raising critical State institutions' awareness of the AfCFTA Trade in Services Protocol; with a view to mitigating inadvertent actions that may compromise the Sierra Leone's obligations under the agreement. While all MDAs should be made conversant with the AfCFTA Trade in Services Protocol, critical institutions like Parliament and the Law Officers Department, responsible for making trade laws and policies should be brought along.

Gate-keep Trade in Services liberalisation obligations from Local Content promotion

As Government of Sierra Leone continues to promote local content as a key strategy for boosting economic productivity; purposeful efforts should be made to gate-keep the protection of Trade in Services liberalisation obligations under the AfCFTA. Essentially, MTI should provide dutiful watch and guidance across Government to ensure that local content precepts do not counteract AfCFTA Trade in Services Protocol.

5.0 ANNEXES

List of documents reviewed

Trade, Economic and Financial Policies of Sierra Leone

Government of Sierra Leone. Government Budget and Statement of Economic and Financial Policy for the Financial Year 2020, 2021, 2022, and 2023.

Government of Sierra Leone. Agenda for Prosperity: The Road to Middle Income Status 2013-2018

Government of Sierra Leone. Medium Term National Development Plan 2019-2023

Sierra Leone Trade Policy

Legislations

The Bank of Sierra Leone (Amendment) Act 2023

National Payment Systems Oversight Regulations 2022

The Finance Act, 2021

The National Telecommunications Authority Act, 2022

The Deposit Protection Fund Act 2022

The Arbitration Act 2022

The Consumer Protection Act, 2020

The Cybercrime Act, 2020

The National Electronic Transactions Act 2019

The Banking Act 2019

The Borrowers and Lenders Act 2019

The Sierra Leone Small and Medium Enterprises Development Agency Act, 2016

The Independent Media Commission Act, 2020

The Sierra Leone Local Content Agency Act, 2016

The Public Procurement Act, 2016

The National Telecommunications Act, 2016

The Insurance Act, 2016

The Trade Marks Act, 2014

The Companies Act, 2014

The Public Private Partnership Act, 2014

The Anti-money Laundering and Financing of Terrorism Act, 2012

The Copyright Act, 2011

The Goods and Services Tax Act, 2009

The Payment Systems Act, 2009

International Agreements, Conventions, and Treaties

Agreement Establishing the African Continental Free Trade Area

Economic Partnership Agreement between the European Union and the West African States

The Ecowas Trade Liberalisation Scheme

The 1975 Treaty of the Economic Community of West African States

Studies

Integrated Transport Policy, Strategy and Investment Plan , 2013

Regulatory Assessment of Sierra Leone in Support of AfCFTA Negotiations. September, 2019. A.A. Betts Priddy.

Statistics Sierra Leone. Sierra Leone Integrated Household Survey Report 2018

Statistics Sierra Leone and Oxford Poverty and Human Development Initiative. Sierra Leone Multidimensional Poverty Index 2019.

World Bank. Sierra Leone: Adding Value through Trade for Poverty Reduction-Diagnostic Trade Integration Study. 2006.

Academic Literature

United Nations Conference on Trade and Development. 26 August 1999. Assessment of Trade in Services of Developing Countries: Summary Findings.

Dorotea Lopez G. and Felipe Munoz N. Assessing Trade in Services Liberalisation

Hoekman, B. and A. Mattoo (2008), "Services Trade and Growth" The World Bank, Policy 21 Research Working Paper, WPS4461

List of Interviews

Mr Eric Eccles-James, Proprietor James International

Mr Mohamed Justice Ganawa, Lecturer, Department of Economic, Fourah Bay College

Mr Brima Kargbo-, Director of Administration, National Telecommunications Authority

Mr. Mohamed Jalloh, Director of Tourism, Ministry of Tourism
Mrs Michaela Serry, Esquire. Conteh and Co
Mr. Gibril Saccoh, Former Deputy Director General NASSIT