

NIGERIAN-BRITISH
CHAMBER OF COMMERCE



NBCC ADVOCACY POSITION PAPER

Dispute Resolution in a Fragmented World: The Legitimacy Gap in Global Trade Law Beyond the World Trade Organisation (WTO)

*Keynote presentation by Prince Abimbola Olashore, President & Chairman of
Council, NBCC at the the International Cocoa and Chocolate Forum (ICCF) 2026*

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DISPUTE RESOLUTION IN A FRAGMENTED WORLD: THE LEGITIMACY GAP IN GLOBAL TRADE LAW BEYOND THE WORLD TRADE ORGANIZATION

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EXECUTIVE SUMMARY

Global trade governance is undergoing a structural transformation which is characterised by fragmentation, regulatory divergence, and weakened multilateral dispute resolution. The paralysis of the World Trade Organization (WTO) Appellate Body since December 2019 has created a significant legitimacy gap in global trade law, undermining predictability, enforceability, and fairness in international trade.

For Nigeria and other commodity-dependent economies, particularly within the cocoa and agro-processing sectors, this disruption represents a critical economic and strategic challenge. Without a credible multilateral dispute resolution mechanism, market access increasingly depends on political leverage, bilateral negotiations, and fragmented compliance regimes.

The Nigerian-British Chamber of Commerce (NBCC), leveraging its unique bilateral platform between Nigeria and the United Kingdom, advocates for pragmatic institutional innovation, sector-specific dispute resolution frameworks, and strengthened private-public cooperation to safeguard Nigeria's export competitiveness and enhance trade legitimacy in a post-WTO enforcement era.

BACKGROUND AND CONTEXT

Global trade has historically relied on rule-based systems to guarantee fairness, predictability, and dispute settlement. Between 1995 and 2019, the WTO dispute settlement mechanism handled over 500 trade disputes and maintained a high compliance rate, earning recognition as the "crown jewel" of global trade governance.

However, since 2019, the WTO Appellate Body has been effectively paralysed due to the inability to appoint new judges. This development has resulted in:

- Appeals being filed without final adjudication
- Weak enforcement of panel rulings
- Increasing reliance on unilateral and bilateral trade measures
- Declining confidence in multilateral trade governance

This governance vacuum disproportionately affects emerging economies that depend on transparent rules rather than geopolitical influence to secure market access.

THE LEGITIMACY GAP IN GLOBAL TRADE LAW

The collapse of appellate enforcement mechanisms has created a three-dimensional legitimacy deficit in global trade governance:

- 1. Input Legitimacy – Representation Deficit:** Developing economies face structural disadvantages in legal capacity, technical expertise, and negotiation leverage. Trade rules are often designed without adequate representation of commodity-producing nations.
- 2. Procedural Legitimacy – Fairness and Transparency Challenge:** The proliferation of overlapping regulatory frameworks and bilateral agreements has introduced inconsistent compliance obligations. This fragmentation increases administrative burdens, particularly for SMEs and agricultural exporters.
- 3. Output Legitimacy – Enforcement and Predictability Failure:** The absence of binding appellate rulings undermines the enforceability of trade decisions, creating uncertainty for investors, exporters, and supply chain stakeholders.

Without credible enforcement mechanisms, global trade risks shifting from rule-based governance to power-based negotiation, placing African commodity producers at a structural disadvantage.

STRATEGIC IMPLICATIONS FOR NIGERIA'S TRADE AND EXPORT DIVERSIFICATION

Nigeria's Economic Reform Agenda Emphasises: Export diversification; Value chain industrialisation; Integration into global supply chains; and Non-oil revenue expansion. However, dispute resolution inefficiencies directly undermine these policy objectives.

Cocoa Trade and Agricultural Value Chains: West Africa produces approximately 70% of global cocoa supply, yet value addition and pricing power remain largely concentrated in developed economies. Key structural challenges include:

Tariff Escalation

- Raw cocoa exports often attract near-zero tariffs.
- Semi-processed cocoa products face tariffs up to 15%.
- Finished chocolate products can attract tariffs up to 30%.

This tariff structure discourages local value addition and weakens Nigeria's industrialisation strategy.

Sustainability and Traceability Compliance

Increasing regulatory requirements such as:

- EU Deforestation Regulation (EUDR)
- Corporate due diligence legislation
- Certification regimes including Fairtrade and Rainforest Alliance

While these frameworks promote sustainability, their lack of harmonisation significantly increases compliance costs for producers and exporters.

Sanitary and Phytosanitary (SPS) Barriers

Technical standards relating to pesticide residues, cadmium limits, and traceability often function as non-tariff barriers. In the absence of reliable dispute settlement pathways, exporters face regulatory opacity and unpredictable market rejection risks.



Bilateral and Multilateral Trade Dynamics: Nigeria-UK Opportunities

The advancing UK-Nigeria trade relationship presents strategic opportunities to pioneer alternative dispute resolution frameworks. Trending bilateral cooperation priorities include:

- Sustainable Trade Partnerships
- Green Supply Chain Governance
- Responsible Commodity Sourcing
- Digital Trade Facilitation
- Investment Protection and Arbitration Reform
- Supply Chain Transparency and ESG Compliance

NBCC is uniquely positioned to strengthen these priorities by facilitating institutional dialogue between regulators, investors, and producers across both jurisdictions.

NBCC ADVOCACY POSITION

The NBCC recognises that waiting solely for WTO institutional reform is insufficient. A pragmatic, multi-layered dispute resolution ecosystem is required.

Immediate Advocacy Priorities

- **Support Interim Multilateral Arbitration Mechanisms:** NBCC advocates expanded participation in frameworks such as the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) to restore appellate functionality and maintain rule-based trade enforcement.
- **Promote Bilateral Arbitration Agreements:** NBCC supports Nigeria-UK bilateral dispute resolution frameworks that provide faster, business-friendly arbitration for trade and investment disputes.

Medium-Term Institutional Reform

- **Establish Commodity-Specific Dispute Resolution Panels:** NBCC advocates the development of a Cocoa Trade Dispute Resolution Panel, structured similarly to investment arbitration bodies but specialised in agricultural commodities. Benefits include: Faster dispute resolution timelines; Technical sector expertise; Pre-commitment jurisdiction from producer and buyer markets; and Reduced compliance and litigation costs.



- **Strengthen Regional Arbitration Frameworks:** Integration with AfCFTA dispute settlement systems can create regional leverage and harmonised compliance standards.

Long-Term Governance Innovation

- **Position Chambers of Commerce as Trade Governance Intermediaries:** NBCC advocates a new model of business-led trade diplomacy, where chambers: Facilitate pre-dispute mediation; Provide compliance advisory support; Coordinate stakeholder dialogue across supply chains; and Strengthen institutional trust between regulators and businesses

POLICY RECOMMENDATIONS TO GOVERNMENT AND STAKEHOLDERS

For Government of Nigeria

- Integrate dispute resolution strategy into export diversification policies.
- Negotiate sector-specific arbitration clauses in bilateral trade agreements.
- Invest in legal and technical trade compliance capacity building.
- Align sustainability compliance frameworks with international interoperability standards.

For Private Sector

- Strengthen ESG compliance and traceability investments.
- Participate actively in dispute mediation and arbitration frameworks.
- Support industry-wide compliance harmonisation initiatives.

For Development Partners and Regulators

- Promote regulatory convergence across sustainability certification systems.
- Support financing mechanisms for compliance infrastructure.
- Encourage private-public dispute resolution platforms.

NBCC STRATEGIC COMMITMENTS

The Nigerian-British Chamber of Commerce commits to:

- Serving as a bilateral dispute mediation facilitator
- Supporting capacity building in trade compliance and arbitration
- Promoting Nigeria-UK sustainable commodity trade frameworks
- Advocating institutional reforms that enhance trade legitimacy and market access.
- Strengthening policy dialogue between government, industry, and international partners

CONCLUSION

The legitimacy gap in global trade law represents one of the most significant governance challenges facing commodity-dependent economies today. The paralysis of the WTO dispute settlement system has fundamentally altered the architecture of global commerce.

For Nigeria, dispute resolution is no longer a peripheral legal issue but a core component of economic competitiveness, investment attraction, and export sustainability.

The NBCC affirms that the future of global trade governance will depend not only on multilateral reform but also on pragmatic bilateral cooperation, sector-specific institutional innovation, and inclusive private-public partnerships.

In an increasingly fragmented trade environment, Nigeria must transition from rule-taker to rule-shaper. Strengthening dispute resolution mechanisms is central to achieving this transformation.



ABOUT THE NBCC

The Nigerian-British Chamber of Commerce (NBCC) is the foremost bilateral Chamber in Nigeria with the objective to promote trade and investment between Nigeria and Britain since its establishment in 1977. The Chamber currently has over 400 members from diverse sectors of the economy. We are an international affiliate of the British Chambers of Commerce (BCC) which gives us access to a network of 53 Chambers of Commerce across the United Kingdom and 71 other international affiliates around the world.

We bring together forward-thinking businesses, policymakers, and innovators to unlock opportunities, build partnerships, and shape the future of bilateral commerce. Whether you're entering UK markets, exploring Nigerian growth, or deepening bilateral investment ties, we are your strategic gateway to success.

Mission

To continually encourage and promote mutually beneficial trade relations between Nigeria and Britain.

Vision

To be the foremost channel of trade and commerce between Nigeria and Britain.

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