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The Role of International Economic Institutions and Economic Development Agreements (EDAs) in pursuing Sustainable Development

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Abstract: The relevance of the International economic institutions and Economic Development Agreements (EDAs) in the world today cannot be overemphasized. Several scholars have opined that they engender developments, particularly, in the countries of interest, and/or where the EDAs have binding force. In the same vein, concept and principles of sustainable development balances the need for economic advancement with the need to preserve global environment to the benefit of the present future generation. This paper examined the role of international economic institutions economic development agreements in pursuing sustainable development. From examination, it was observed that EDAs executed between countries now consider environmental factors and other aspects of sustainable development as veritable elements. And that Sustainable development has reshaped the interpretation of key provisions within the WTO's agreements.

Keywords: International Economic Institutions, Economic Development Agreements, Sustainable Development.

INTRODUCTION

The current developments in international law witnesses an increase in a number of disputes arising out of conflicting societal values such as the promotion of economic developments against the protection of the health and environment. The international economic institutions created to, among other things, boast the economic cooperation among countries and help a quicker recovery of the international economy have, by the extrapolation of many critics have acted outside the aims and objectives of creating them hence the resort by countries to economic development agreement so as to ensure that the principles of Sustainable Development are adhered to in order to protect the environment, and also, the sovereignty of countries and their right to choices.

This paper will examine the role of international economic institutions and economic development agreements in pursuing Sustainable Development. Efforts would be made towards dissecting the concepts therein and the role and impact of them on sustainable development and others.

International Economic Institutions explained

According to Nitisha [1] There are four major international economic institutions, namely, World Trade Organisation (WTO), International Monetary Fund (IMF), World Bank and United Nations Conference on Trade and Development (UNCTAD).

World Trade Organization

WTO was formed in 1995 to replace the General Agreement on Tariffs and Trade (GATT),

which was started in 1948. GATT was replaced by WTO, owing to several reasons, including the issue of bias against the developing countries. One of the significant things introduced in the WTO was the inclusion of the principles and objectives of sustainable development in the preamble of the Agreement as the context in which WTO's Agreement shall be interpreted. The WTO was formed as a global international organization dealing with the rules of international trade among countries. The main objective of WTO is to help the global organizations to conduct their businesses. WTO, headquartered at Geneva, Switzerland, consists of 162 members and represents more than 97% of world's trade.

The main objectives of WTO are as follows:

- Raising the standard of living of people, promoting full employment, expanding production and trade, and utilizing the world's resources optimally.

¹ Nitisha International Economics

- Ensuring that developing and less developed countries have better share of growth in the world trade.
- Introducing sustainable development in which balanced growth of trade and environment goes together [2].

The main functions of WTO are as follows:

- Setting the framework for trade policies.
- Reviewing the trade policies of different countries.
- Providing technical cooperation to the developed and the developing countries.
- Setting a forum for addressing trade-related disputes among different countries.
- Reducing the barriers to international trade.
- Facilitating the implementation, administration, and operation of agreements.
- Setting a negotiation forum for multilateral trade agreements.
- Cooperating with the international institutions, such as IMF and World Bank for making global economic policies.
- Ensuring the transparency of trade policies.
- Conducting economic research and analysis.

International Monetary Fund (IMF)

IMF was established in 1945, currently it consists of 187 member countries and works to secure financial stability, develop global monetary cooperation, facilitate international trade, and reduce poverty and maintain sustainable economic growth around the world. It has its headquarter in Washington, D.C., United States.

The objectives of IMF are as follows:

- Helping in increasing employment and real income of people.
- Solving the international monetary problems that distort the economic development of different nations.
- Maintaining stability in the international exchange rates.
- Strengthening the economic integrity of the nations.
- Providing funds to the member nations as and when required.
- Monitoring the financial and economic policies of member nations.
- Assisting low developed countries in effectively managing their economies [3].

It should be noted that WTO and IMF work together in a number of areas, and that progress towards

membership of WTO is generally required as a precondition for World Bank and IMF assistance.

United Nations Conference on Trade and Development (UNCTAD)

UNCTAD was established in 1964, as one of the principal organs of United Nations General Assembly. It provides a forum where the developing countries can discuss the problems related to economic development. UNCTAD is headquartered in Geneva, Switzerland and has 193 member countries. The conference of these member countries is held every four years. UNCTAD was created as an intervention organ due to the indifference of the existing institutions, such as GATT, IMF, and World Bank to the problems of developing countries. UNCTAD's main objectives are to formulate the policies related to areas of development, such as trade, finance, transport, and technology and 'Policy space' – to allow the developing countries to liberalize at their pace through lengthened transitional stages, reduced reciprocity obligations, etc.

The main objectives of UNCTAD are as follows:

- Eliminating trade barriers that act as constraints for developing countries
- Promoting international trade for speeding up the economic development
- Formulating principles and policies related to international trade
- Negotiating the multinational trade agreements
- Providing technical assistance to developing countries specially low developed countries

It is important to note that UNCTAD is a strategic partner of WTO. Both the organizations ensure that international trade helps the low developed and developing countries in accelerating their pace of growth. On 16th April, 2003, WTO and UNCTAD also signed a Memorandum of Understanding (MoU), which identifies the fields for cooperation to facilitate the joint activities between them.

World Bank

The World Bank [4] was created at the Bretton wood conference in 1944, it has 186 members, with headquarter in Washington DC, USA. The World Bank was established to address the issue of reconstruction of war-torn areas in Western Europe and to render long time assistance to particular projects of reconstruction or development [5]. According to Millward [6] 'the World Bank's mandate transitioned to eradicating poverty around the World'. It should also be noted that

² www.wto.int accessed on 26/05/2018

³ www.imf.org accessed on 09/10/2015

⁴ . www.worldbank.org accessed on 26/05/2018

⁵ The Bank's Article of Agreement, Article 1 &111

⁶

the Article of Agreement are viewed as more powerful than the internal laws of the state [7].

Economic Development Agreements (EDA) explained

According to Okogbule [8] EDA is a contract between a host country – usually a developing country and private foreign corporation involving the participation of the later in a certain development project or sets of projects in the country either through assistances in the exploitation of natural resources, available in the host state or in the construction, manufactory, or other sectors of the country's economic. By the nature of EDA, government agencies can also enter into it for the purpose of helping to bring economic development. There are preponderant of examples of EDA between states and private local corporations in the developed State like the United State of America - EDA Between the city of Allen, Texas and the village at Allen, L.P. (a Texas limited partnership), executed on 2nd October, 2007, for the company to build an event centre for the city within the village. Also, between the State of Texas and Rackspace US INC; August 1st 2007 [9]. Okogbule further argued that EDA can be entered into by the developed nation, because development is not static. He, however, posited that the delicacy of the problem of law regulating EDA has led to the present lack of consensus on the law to govern its operations where no provisions are expressly made respecting this in the agreement itself [10]. This sentiment is shared by several scholars, but by the provisions of the Uruguay Round's preamble, the right of regulation is given to the States [11]. This is consistence with the sovereign statues of states [12]. And by extension, gives the states the latitude and leverage to pursue the principles of sustainable development which seeks to protect the environment and the society for the benefit of all, including the future generation. The types of EDA include:

- Concession agreement: this agreement consists of only royalty payment based on the tonnage of Crude Oil produced in very large area with unreasonable long period.
- Joint Venture agreements (JVA): this is between the host-State may be, through its agencies or represented by it, and some foreign corporations, defining rights, obligation, Interest, cost, profit and loss sharing etc. It should be noted that joint operating agreements were introduced in the Nigerian Oil and gas sector pursuant to the

petroleum Act, Cap 350, LFN 1990 and NNPC Act – Cap 320, CFN 1990.

- Production Share Agreements (PSA): this is both commercial and a regulatory document. The PSA does not vest contractor with ownership over the oil, it lies with the state. It is drafted so that the contractor can extract the Government's Oil on its behalf. Nigeria, in 1993, through NNPC, entered into PSAs with eight IOCs, under this, NNPC is the holder of the concession while the IOC is the contractor.
- Risk Service Agreement (RSA): this emerged in the later part of the 20th century. In this, the host country (usually its NOC) hires the services of an IOC, for technical and financial capability. The IOC assumes the legal status of the contractor. The financial risk is completely borne by the contractor subject to reimbursement if production occurs [13].

Concept of Sustainable Development explained

Sustainable development, according to Okoro [14] is the Judicious and planned use of natural resources for equitable development, to meet the needs of the present generation without jeopardizing that of the future generation. This concept is predicated on what several authors alluded to as 'the three pillars of sustainable development' they are Economic development, Social development and Environmental protection. The concept of sustainable development emerged slowly and as part of an interactive process that continued even today. The World Commission on Environment and Development (WCED) report published in 1987 set the stage for it to become the centerpiece of the International environmental movement. However, it was first articulated in International dispute settlement in PACIFIC FUR SEALS ARBITRATION, in which United States of America sought to justify an Act of congress that prohibited the killing of SEALS in pribiloff Islands and Adjacent waters, unless certain conditions are met – USA VS UK's case. The contemporary definition emerged in 1972 Stockholm declarations of the Conference on the Human Environment. This emphasized the need for States to adopt an integrated and co-ordinated approach to their development planning, to ensure consistency with the need to protect and improve the environment. Other instruments include: RIO declaration 1992, Copenhagen declaration 1995, Johannesburg declaration of 2002 and countless UN instruments, multilateral treaties and soft instruments, etc. Sands [15] further posited the four

⁷ Ibid, (n 4)

⁸ Okogbule, N. S Legal Status of Economic Development Agreements

⁹ Ibid,

¹⁰ ibid

¹¹ See ART. VI of Uruguay Round.

¹² Okogbule (n 8)

¹³ Otamiri, C.O (2015) Examine the Legal Status of Economic Development Agreements (unpublish)

¹⁴ Okoro Dudu – fubara, M.T (1998) Law of Environmental protection, p 62

¹⁵ Sands, P

principles essential to sustainable development they as follows:

- Principle of Inter-Generational Equity: this means that the present generation does not own the environment, it lives in it, they are trustees, and should be concerned with the benefit they leave for the future.
- Principle of Sustainable use: this entails that the present generation may exploit Natural resources and environment, prudently, wisely or appropriately. The Fuel Retailers Association of South Africa's case instructive, where the South African constitutional court ruled that sustainable development use and exploration of natural resources are at the core of protection of the environment.
- Principle of Equitable use: This stipulates that the use by the state must take account of the need of other States [16].
- Principle of Integration: Sustainable development is integrated into economic and other development plans and programs, etc.

However, several scholars agreed with Sands' postulation, but argued for the inclusion of additional principles such as Precaution, Environmental Impact Assessment, and public participation in decision making.

International Economic Institutions, Economic Development Agreements and Sustainable Development

The international economic institutions, by extension and among other things, work together to engender economic development and stability, free trade, environmental protection and development of the society. These, with the exception of free trade, are the three pillars upon which sustainable development is predicated. The importance of this concept led the World Trade Organization (WTO) to set up a committee on Trade and Environment when the WTO was founded, the aim was to review the relationship between environmental protection and trade rules and to identify possible reforms, but ten years on, the committee has not reached conclusion on anything.

However, recent dispute settlement cases have led to a number of significant reinterpretations of WTO rules, including the applicability of the commitment to sustainable development in the preamble to the WTO agreement and the relevant paragraphs of Article xx of

the GATT which have helped to resolve some tensions between trade and Governments, and has created an interdependence relationship with the WTO and sustainable development. This was further amplified by the negotiators of the WTO's insistence and expression provision that members trade relations and dispute settlement processes must reflect the objectives and principles of sustainable development, a clear departure from the old GATT 1947 system that emphasis economic growth to the detriment of environmental consideration. Economic Development Agreements (EDA) has also been significant [17] in the pursuit of sustainable development principles. Currently, all Economic Development Agreements (EDA), now has elements of sustainable development principle such as Environmental impact assessment, and has also given the states the latitude and leverage to pursue of the principles of sustainable development which seeks to protect the environment and the society for the benefit of all, including the future generation.

Therefore, it is safe to say that the International economic institutions and the Economic Development Agreements have continued to popularize the concept of sustainable development to the extent that all transactions embarked upon by the countries of the world today is usually judged rightly or wrongly gleaned from such transactions' leaning to the concept of sustainable development.

CONCLUSION

Sustainable development has reshaped the interpretation of key provisions within the WTO agreement, offering to the members more policy space (as conversed by UNCTAD) to protect essential interests like environment, etc. It does not have legal obligations or direct cause of action, but, instead intervene to mitigate tensions between potentially conflicting norms. International court of justice (ICJ) posited in support of the concept of sustainable development thus: that "the need to reconcile economic development with protection of the environment is aptly expressed in the concept of sustainable development". This is the mindset and the position of the world today.

The WTO Appellate body has, also, used the principles inherent in sustainable development to decide most of their cases. Instructively, the old GATT may not, but today's WTO is using the concept and principle of sustainable development to balances the need for economic advancement with the need to preserve global environment to the benefit of the present and future generation. And also as a yardstick or tool to address potential conflicts and construct a subtle doctrine of harmony where discord and fragmentation exist.

¹⁶ See, Art 3 (1) UNFCCC & principles of RIO Declaration. See also, PULP MILLS' CASE, where ICJ noted that the use of Uruguay River should allow for sustainable development that safeguards the continued conservation of the River environment and the Rights of the riparian states.

¹⁷ sequel to the tacit restoration of sovereignty by the Uruguay Round