TAXATION OF IMPORTED GOODS AND THE LIMITS OF CUSTOMS AUTHORITY IN NIGERIA: A LEGAL ANALYSIS OF IMPORTERS' RIGHTS AND REMEDIES

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Abstract

Administration of customs duties is an essential aspect of the Nigerian fiscal system and international trade regulation. However, persistent complaints of arbitrary valuation, illegal seizures, and bureaucratic abuse of international trade by customs officers indicate wide abuse of statutory powers and violation of importers' rights anchored in law. The purpose of this article is to conduct a comprehensive review of the legal framework supporting taxation of imported goods in Nigeria and determine the boundaries of customs authority in the discharge of fiscal functions. The key research questions focus on the legal sources of customs powers, nature of importers' rights, and some solutions to the forced dichotomy. Applying a doctrinal approach, the study analyses key statutes, such as the Customs and Excise Management Act, relevant judicial decisions and scholarly opinions to determine the extent of administrative discretion against the law. The article argues that weak administrative accountability and legislative oversight lead to a systemic trade injustice and violation of the Constitution. The article concludes with recommendations for legal reform, including among other things, digitalisation, and judicial review to balance importers' rights and fiscal capability.

Keywords: Customs Duties, Importers' Rights, Administrative Abuse, Trade Law, Legal Remedies

1.0. Introduction

According to the 2023 report of The Federal Inland Revenue Service, customs taxation represents one of the most strategically crucial sources of non-oil revenue in Nigeria: it amounts to nearly 25% of the government's total income[2]. The Nigeria Customs Service is the key stakeholder that is responsible for ensuring that the due import duties, excise duties, and other levies on imported goods are safely and correctly collected. The Nigeria Customs Service has however, not been efficient in discharging her duties: the system is, and has been short of measure critical of success level and not built on moral compliance to the system. Across several years, Nigerian consumers have raised numerous compliances complaints over the corrupt, inefficient, and repressive reigns of the NCS that have seen several other rights of legitimate importers violated The finding in the recent 2022 study conducted by the Centre for Trade Policy and Development established a report from over 38% of Nigerian importers who continue to face incidences of punitively justified

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[2] Federal Inland Revenue Service (FIRS), Annual Revenue Report 2023 (Abuja: FIRS Publications, 2023), 17.

detention of the goods, double valuation, and extortion in the NCS checkpoints[3]. The acts have led to great economic losses and numerous reductions on the part of international investors' confidence in investing in Nigeria. The finding, however, raises a crucial challenge to the state's hunt for revenue at the economy's expense for the constitutionally protected entity's value[4] and the fair administration of the provisions that guarantee it.

The Nigeria Customs Service is established under the Customs and Excise Management Act and is statutorily empowered to collect import duties, prevent smuggling, and regulate trade in accordance with fiscal policy[5]. Simply put, a customs officer has the power and the right to stop the car and check if everything is 'clean', depending on his discretion. In addition, a customs officer may also demand documents that the importer must provide. If the customs officer determines that the bill of lading or any other important document is missing, the customs officer has the right to detain the entire shipment and its owner[6]. In most cases, the above powers are used with a fundamental lack of procedural justice, which is why most importers are in constant conflict with customs officials. For example, a summary presented by the Manufacturers Association of Nigeria in 2023 has it that over ₦80 billion worth of goods were seized without authority, prosecution, or administrative judgment[7]. In many cases, as in the current one, businesses no longer trust the legal framework and circumvent its execution. Also, this fact directly contradicts Nigeria's participation in the multilateral Trade Facilitation Agreement within the World Trade Organization.

In addition to the above statutory powers, Nigeria Customs Service's institutional culture perpetrates aligned patterns of abuses regarding discretion, arbitrary exercise, and lack of oversight. Nigeria ranked 179 globally in "trading across borders" on "Ease of Doing Business Report 2020" by the World Bank, citing customs inefficiencies and arbitrary valuation as major constraints[8]. The study reports that the average clearance time for imported goods across Nigerian ports is over 20 days, as opposed to under 5 and 4 in Ghana and South Africa, respectively. Another survey attributes the delays to repetitive verification exercises and harassments of informal payments[9]. The bottlenecks have pushed importers to a point of seeking judicial scrutiny, leading to cases such as *Comptroller-General of Custom v. Gusau*[10]. The Supreme Court in this case condemned the Customs' arbitrary seizure as a violation of property rights and violation of the right to due process[11].

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[3] Centre for Trade Policy and Development, Import Efficiency and Customs Practices in Nigeria (Lagos: CTPD Policy Series, 2022), 42.

[4] Constitution of the Federal Republic of Nigeria (1999, as amended), sec. 44.

[5] Customs and Excise Management Act (CEMA), Cap C45, Laws of the Federation of Nigeria, 2004, secs. 4–5.

[6] CEMA, sec. 8.

[7] Manufacturers Association of Nigeria (MAN), Annual Trade Compliance Report (Lagos: MAN Press, 2023), 13.

[8] World Bank, Doing Business 2020: Comparing Business Regulation in 190 Economies (Washington, D.C.: World Bank, 2020), 82.

[9] National Bureau of Statistics (NBS), Port Operations and Trade Logistics Survey 2021 (Abuja: NBS, 2021), 27.

[10] (2017) 18 NWLR (Pt. 1597) 433 (C.A.).

[11] *Ibid*.

Therefore, the continued lack of consistency in the application of valuation systems under the implementation of the Pre-Arrival Assessment Report (PAAR) has seen multiple assessments andthe double taxation of the same goods[12]. Some have had arbitrary revaluation by customs who ignore original invoices and foreign supplier documentation in contravention of the Valuation Agreement by the World Customs Organization[13]. For example, Transparency International, in 2021, identified the Nigeria Customs Service as among the country's top five most corruption-prone agencies citing systemic bribery and extortion[14]. These issues show how weak institutional accountability allows the infringement of importers' right to property, fair hearing, and freedom from arbitrary interference in their trade activities.

In the light of these ugly statistics of Importers' rights violation by Nigeria's customs officers, the present study aims to carry out an in-depth scrutinization of the taxation of imported goods and to identify the limits of legality of the customs' authority. In other words, the investigation focuses on the issues provided directly by the subject matter and will reveal the statutory basis of the actions of customs, determine the nature of the rights of importers by existing legislations, and propose necessary changes. The study is important since it connects fiscal management with the rights of the individual, demonstrates how the absence of certainty about the requirements of customs weakens the economic freedom of the subject, reduces the attractiveness for foreign investments, and is directly opposed to the principles of justice and fair trials enshrined in the Constitution. Finally, the study will also contribute to the improvement of legislation in the field of mineral rent trade in Nigeria by introducing legal measures that will help to combine the activities of customs with the most modern regulation and the principles of legality.

2.0. Review of the Relevant Concepts

2.1 Customs Duties

Customs duties denote the tax or the tariffs charged on goods imported in and exported out of a country. They serve as a vital source of public revenue and a trade policy tool[15]. In Nigeria, customs duties are regulated by the Customs and Excise Management Act by which the Nigerian Customs Service is empowered to assess, collect, and account for the said taxes as per the prescribed schedule of tariffs[16]. Normally, the rates are set by the Harmonized Commodity Description and Coding System managed by the World Customs Organization, making them homogenous and

[12] Federal Ministry of Finance, Implementation Review of the Pre-Arrival Assessment Report (PAAR) Scheme, (Abuja: FMF Policy Review Series, 2021), 31.

[13] World Customs Organization (WCO), Agreement on Customs Valuation (Brussels: WCO Publications, 2018), art. 7.

[14] Transparency International, Corruption Perceptions Report: Nigeria Sectoral Analysis 2021 (Berlin: TI, 2021), 29.

[15] A O Adekunle, "An Analysis of Customs Duty and Its Impact on Trade Policy in Nigeria," *Nigerian Journal of Economic and Financial Law* 12, no. 2 (2021), p. 77.

[16] Customs and Excise Management Act (CEMA), Cap C45, Laws of the Federation of Nigeria, 2004, sec. 4.

ultimately internationally acceptable. However, the Nigerian customs administration has been generally opaque as many instances of arbitrary valuation and classification have emerged[17].Therefore, taxpayers' outcomes for importers are often unpredictable since many are exposed to multiple assessments, unnecessary clearance delays, and occasional unofficial demands. While there can be no fiscal sustainability without the compulsory source of revenue, customs duties, the lack of transparency and accountability described suggests an absence of equity and certainty that should be a key characteristic of a modern customs administration.

The other purpose of customs duties is its use as an economic instrument to protect domestic industries from foreign competition and correct balance of payment imbalances[18]. Customs duties are not only a revenue instrument but as well a regulatory tool because of its impact on consumer preferences and industrialization pathways. However, in the Nigerian context, the process of duty assessment had strayed away from its statutory and policy mandating, leading to arbitrary practices and excessive discretion in the hands of customs officers[19]. For example, notwithstanding that Section 27 of the CEMA spells out a specific requirement with respect to valuation and assessment, field enforcement officers dismiss the clear provision of this statutory instrument in favor of their creative discretion. This means the customs administration of Nigeria has gone rogue to frolic around the legislative framework in a manner that runs parallel to legal tenets. In so doing, the fiscal validity of customs duties withers on the vine, transforming the fiscal tool into an instrument of duress rather than tax facilitation. Consequently, the effective implementation of a customs duty regime must not only appreciate the fiscal priority of the state to but also the economic rights and procedural entitlement of traders[20].

2.2 Importers' Rights

Importers' rights refer to the set of legal entitlements and procedural guarantees under national and international law that an individual or entity involved in international trade is entitled to[21]. It encompasses the protection of property, the right to fair administrative action, the right to appeal against customs decisions, and full protection of the right to trade without arbitrary discretionary interference. In Nigeria, these rights flow from the 1999 Constitution, especially the right to fair hearing and property under S.36 and 44, respectively[22]. However, even under these constitutional guarantees, importers still encounter systematic violations through arbitrary detention of goods,

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[17] N Okafor, "Nigeria's Import Duty Administration: Between Revenue Drive and Economic Justice." Business Day Nigeria, July 15, 2023. https://businessday.ng/economy/article/nigerias-import-duty-administration-between-revenue-drive-and-economic-justice/.> Accessed 31-10-2023.

[18] T Olatunde, and M Ojo. "Fiscal Policy and Customs Tariff Administration in Nigeria." African Journal of Public Policy 9, no. 1 (2022): 102.

[19] CEMA, sec. 27.

[20] F Adeyemo, "Reforming Nigeria's Customs and Tariff System for Competitive Trade." African Trade Monitor, February 2022. https://africantrademonitor.org/reforming-nigerias-customs-and-tariff-system/.> Accessed 31-10-2025

[21] C Ezenwajiaku, "Trade and Human Rights: The Legal Protection of Importers in Nigeria." *Nigerian Journal of Commercial Law* 8, no. 2 (2022): 115

[22] Constitution of the Federal Republic of Nigeria (1999, as amended), secs. 36, 44.

exorbitant fines, and lengthy clearance framework. An empirical study shows that over 40% of importers experience customs interference without a valid legal mandate, showing a significant deviation from protected due process[23]. Thus, protecting importers' rights is core to guaranteeing economic efficiency, promoting the rule of law, and building investor trust in the country's trade policies.

Internationally, the rights of importers are further strengthened by various trade agreements. Nigeria itself is a member of the Trade Facilitation Agreement ratified by the World Trade Organization, which entered into force in 2017[24]. According to TFA, such principles as transparency, predictability, and the right to an appeal against administrative decisions should be followed[25]. The lack of the mentioned safeguards may lead to a violation of importers' rights. At the same time, in Nigeria, standards dictated by TFA are not adequately implemented. Most agents of customs, who are vested with too much power in many cases, routinely act outside the scope of their legal powers. Many importers report cases of proceeding without an authorized examination in which the states' customs values are varied on arbitrary and whimsical grounds in complete disregard of the documentary evidence that has been provided to support the values declared. These practices are contrary not only to the national administrative law but also to the international trade law of which Nigeria is a part[26]. Therefore, a full provision of the rights of importers requires the improvement of existing laws and proper discipline within the Nigeria's Custom Services.

2.3 Administrative Abuse

Administrative Abuse is the abuse or misuse of official power through excess of authority and violation of legal norms and individual rights, thereby subverting justice[27]. Within the Nigerian customs, administrative abuse takes the form of arbitrary seizures, extortion, selective administration, and imposition of fees[28]. While the Customs and Excise Act was intended to guarantee fairness and transparency for stakeholders, the regulatory governance gave rise to in fructuously excessive regulations, poor accountability, low levels of oversight, and selective administration. The inability of independent complaints or appeal body in the Nigeria Customs Service exacerbates the issue, as importers of goods have no direct channel of action. Such a lack of strong grievance institutional mechanism leads to studies suggesting 68, 4% of disputes between

[23] International Trade Centre. "Business and Policy Environment in Nigeria's Import Sector." ITC Trade Briefs, 2023. https://intracen.org/resources/nigeria-import-sector-policy-environment> Accessed 31-10-2025

[24] World Trade Organization (WTO). Trade Facilitation Agreement and Nigeria's Commitments. Geneva: WTO Publications, 2021.

[25] *Ibid*., arts. 4–6.

[26] A Nwosu, and A Bello, "Administrative Justice and Trade Facilitation in Nigeria." *Journal of African Trade Law* 5, no. 1 (2023): 48.

[27] D Olowu, "Administrative Accountability in Nigeria's Public Institutions." *African Governance Review* 11, no. 3 (2021): 24.

[28] CEMA, secs. 145–150.

importers and the customs administrators unresolved[29]. This high level of administrative abuse threatens fiscal honesty and Nigeria's credibility within the rule of law.

Administrative abuse also compromises investor trust and international trade's efficiency by adding transactional costs and discouraging trader compliance[30]. The need for reform is increasing due to these ongoing abuses and includes automation of customs operations, valuation system transparency, and disciplinary action against offending officials. Although the effectiveness of judicial intervention is limited, Nigerian courts have begun fighting against these abuses weekly[31]. This was evident in the *Comptroller-General of Customs v. Gusau*[32] where the Court of Appeal held that the customs board must exercise its statutory authority. Administrative abuse will cripple the Nigeria Customs Service as long as institutional accountability structures and consistent disciplinary enforcement remain elusive. The integration of ethics, technology, and legal compliance into Nigeria's Customs Service operation is essential for restoring public confidence and trader justice.

3.0. Legal Framework for the Taxation of Imported Goods in Nigeria

The legal framework of taxation of imported goods in Nigeria is built upon a labyrinth of legislations, constitutional stipulations and administrative rules that define the statutory basis of the state's power to impose, levy and recover customs, excise and other duties. The primary statute regulating import duties is the Customs and Excise Management Act, Cap C45, Laws of the Federation of Nigeria 2004, which invests the Nigeria Customs Service with the power to supervise, manage and control all customs operations within its corporate climes[33]. It provides for the basis of the valuation, assessment and payment of customs duties and prescribes the penalties for infringements on laws concerning importation and exportation. The subsequent Finance Acts of 2019, 2020 and 2023 have substantially reformed the fiscal regime by adjusting the tariff tables, introducing the digital processing of customs documents and aligning the structure and functions of the customs with global trade provisions[34]. The regulations made under the CEMA, particularly the Customs and Excise Regulations Special Penal and Other Provisions 2020 [S.I 4] are administrative guidelines applicable for the due performance of the obligations and compliance requirements to be observed by the importer or his customs agent[35]. These legislations provide the statutory framework for the administration and collection of customs revenues and the regulation of international trade within the territory of Nigeria.

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[29] National Bureau of Statistics (NBS). Trade and Administrative Performance Report 2022. Abuja: NBS, 2023, 36.

[30]United Nations Conference on Trade and Development (UNCTAD). Trade Facilitation and Customs Modernization in Africa. Geneva: UNCTAD, 2022, 55.

[31] Federal Ministry of Finance. Nigeria Customs Reform Strategy 2023–2027. Abuja: FMF Publications, 2023, 9.

[32] (2017) 18 NWLR (Pt. 1597) 433 (C.A.).

[33] Customs and Excise Management Act (CEMA), Cap C45, Laws of the Federation of Nigeria, 2004, secs. 4–5.

[34] Federal Republic of Nigeria, Finance Act 2023 (Abuja: Federal Government Press, 2023), 11.

[35] Nigeria Customs Service, Customs and Excise (Special Penal and Other Provisions) Regulations 2020 (Abuja: NCS Legal Department, 2020), 7.

Firstly, and most fundamentally is the constitutional basis from which the Custom taxes in Nigeria is premised. The major provisions are well captured in the Sections 4 and 162 of the 1999 Constitution[36] . Generally, Section 4 , specifically subsections 1) and 2), vests the power to legislate on the plenary of peace, order and good governance in the country, inclusive of issues related to the customs and excise duties as contained in item 16 of the exclusive legislative list referred to in Section 4 of the constitution. [37]Section 162 further vests in the sole discretion of the federation all revenues collected from the federation sources to which custom duty is inclusive. This further directs the sharing of the proceeds to the two houses of the federation among other institutions. It

means that the nation derives taxation power from an act of parliament, and it is therefore imperative as an act of fiscal administration. Proper logic further extended to judgment if any regulation of the authority is tested in a court of law[38].

In 2025, the National Assembly passed four Tax Bills into law. They are the Nigeria Revenue Service (Establishment) Act No 4 2025, Nigeria Tax Administration Act No 5 of 2025, Joint Revenue Board of Nigeria Establishment) Act No 6 of 2025 and the Nigeria Tax Act No 7 of 2025. These laws are to become operative on the 1st day of January, 2026. These Acts of the National Assembly took over the Nigeria tax regime and form an integral part of the legal framework for this discourse.

The Nigeria Customs Service was created under section 3 of CEMA and operates as the mandated enforcement agency under the act to execute customs and excise laws and render compliance with all regulations relating to the importation of goods[39]. The functions of the Nigeria Customs Service are to assess and collect customs revenue, prevent smuggling, impose trade prohibitions and facilitate customs ports and collection centres for lawful trade. [40]The NCS does not operate in isolation and partners with other fiscal and regulatory institutions including Federal Inland Revenue Service (FIRS) now known as Nigeria Revenue Service (NRS), Central Bank of Nigeria (CBN), and the Standards Organization of Nigeria (SON) all of which contribute to Nigeria's import system[41]. The current structured mandates are the ideal, but there exists overlaps and poor inter-agency cooperation which lead to administrative delays and duplication of compliance processes affecting the efficiency of trade and confidence of the importer to the system. Therefore, the customs tax legalities should not only define powers but create a coherent system of interaction by fiscals.

[36] Constitution of the Federal Republic of Nigeria (1999, as amended), secs. 4, 162.

[37] *Ibid*., Second Schedule, Part I, Item 16.

[38]C Nwogwugwu, "Taxation and Fiscal Federalism in Nigeria: An Analysis of Constitutional Allocation of Powers." *Nigerian Journal of Fiscal Studies* 7, no. 2 (2021): 65.

[39] CEMA, sec. 3.

[40] Nigeria Customs Service, Annual Operational Report 2023 (Abuja: NCS Publications, 2024), 14.

[41] Federal Inland Revenue Service, Revenue Coordination Report 2022 (Abuja: FIRS, 2023), 22.

Additionally, the statutory basis of customs duties for Nigeria emanates from a more extensive economic and developmental rationale that links fiscal policy to trade liberalization and industrial

protection[42]. Apart from the Import Prohibition List, the government through the ECOWAS Protocol has also ratified the Common External Tariff to control the inflow of goods, stimulate domestic production and ensure the balance of payments remains stable[43]. Nevertheless, while these tools express broad macroeconomic goals, their actual implementation is marked by constant and unpredictable modifications as well as a lack of transparency. In 2022, for example, the ECOWAS revised the CET and reclassified more than 300 tariff lines without involving stakeholders. Neither importers nor customs knew how to process the new rates. The inconsistent application of customs duties therefore reflect the unbridgeable divide between the trade policy intentions in Nigeria and the broader operation of the customs[44].

Finally, the legal regime recognized international commitments as distinct elements of Nigeria's customs frame due to membership in the World Trade Organization and the World Customs Organization[45]. The country ratified the WTO Trade Facilitation Agreement and the World Customs Organization (WCO) Revised Kyoto Convention to project an image of cooperation[46], but even in this case, the principles of partnership, availability of information, and defense of traders' rights need to be adjusted to local conditions. Nigeria Integrated Customs Information System is just one step in blending the Customs and Excise Management Act and international standards to create a functioning model for trade[47]. With all of these issues remaining, support for the customs regime should not be limited to fiscal goals alone.

4.0. Scope and Limits of Customs Authority

Customs authority in Nigeria is defined by CEMA, or Customs and Excise Management Act. CEMA describes in detail the methods and extent of control exercised by customs officers over goods, shipping papers and other documents and vessels. The principal aim of the Act is to provide customs officers with all the power and the right to ensure collection and protection of federal fiscal policy[48]. Not only such approach ensures national revenue integrity but also helps to safeguard the national economy from smuggling and under-declaration of goods. The wide powers of control granted to customs officers by CEMA imply multiple possibilities to interfere with property rights

[42] Federal Ministry of Finance, Budget, and National Planning, Economic and Fiscal Policy Report 2022 (Abuja: FMFBNP, 2022), 37.

[43] ECOWAS Commission, Common External Tariff (CET) 2022–2026 (Abuja: ECOWAS Publications, 2022), 16.

[44] B Adeoye, "Tariff Volatility and Policy Instability in Nigeria's Import System." Journal of African Economic Policy 10, no. 1 (2023): 29.

[45] World Trade Organization (WTO), Trade Facilitation Agreement and Nigeria's Commitments (Geneva: WTO Publications, 2021), arts. 2–8.

[46] Nigeria Customs Service, Implementation Report on NICIS II Platform (Abuja: NCS ICT Department, 2023), 5.

[47] A Okeke, "Legal Reform and Trade Facilitation in Nigeria's Customs System." *African Journal of Trade and Development Law* 6, no. 3 (2023): 56.

[48] Customs and Excise Management Act (CEMA), Cap. C45, Laws of the Federation of Nigeria, 2004, ss. 27–33.

and privacy of subjects of control[49]. Such possibility is evident in CEMA's Sections 27-33. Thus, Section 27 gives a wide range of rights to officers of customs authorities, such as the right to examine goods and packages thereof and require information and records[50]. Under the constitutional provisions, these rights shall not be exercised by the authorities in the way that violates constitutional rights of individuals, in the case under analysis, the right to own[51].
Through judicial interpretations, the scope and limitation of customs authority in Nigeria's legal order is determined. Again, in the case of *A.-G. Federation v. A.-G. Abia State*[52] the court held that all federal revenue agencies lack overlapping discretion when carrying out powers to collect and enforce, as they use statutory instruments. In this case, the court ruled that a customs officer is an arm of the law and does not act independently of the law under the law. Therefore, the authorities cannot misuse administrative power as was done against Elemo[53]. The court clarified its position in the above cases in affirming the constitutional supremacy by which statutes are interpreted. Therefore, the courts play an oversight role in checking excesses conducted by the administrative machineries. Thus, through the court intervention[54], the agencies collect their duties without infringing the human rights and the rule of law.

The Nigeria Customs Service also possesses extensive valuation powers; thus, the organization sets the transaction value of imported goods when assessing duties, as prescribed by CEMA and compatible with international standards[55]. Such discretion is essential for maintaining the fiscal base but is frequently criticized for the deficient transparency and extreme inconsistency, especially in cases of discretionary upward adjustments[56]. Importers are often subjected to arbitrary customs value determinations, leading to excessive duty assessments and unwarranted seizures[57]. This problem has led to numerous recommendations for compliance with the World Trade Organization Customs Valuation Agreement, which prioritizes the objectivity and predicatively of the evaluation process[58]. It is, therefore, the NCS officials' legal duty, imposed by the state under international law, and reasserted in national legislation. The immanent problem is not law per se but the way it is used, allowing for numerous instances of officers with unfettered discretionary discretion[59].

[49] *Ibid*., s. 29.
[50] Constitution of the Federal Republic of Nigeria, 1999 (as amended), s. 44(1).
[51] *Ibid*., s. 36(1).
[52] *Attorney-General of the Federation v. Attorney-General of Abia State* (2002) 6 NWLR (Pt. 763) 264.
[53] *Ariori v. Elemo* (1983) 1 SCNLR 1
[54] See *Attorney-General of Lagos State v. Eko Hotels Ltd.* (2018) 36 TLRN 1.
[55] Customs and Excise Management Act (CEMA), Cap. C45, s. 45.
[56] E C Okwara, "Administrative Discretion and Import Valuation under Nigerian Customs Law," *Nigerian Journal of Commercial Law* 9, no. 2 (2022): 118.
[57] *Ibid*., 119.
[58] World Trade Organization, Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement), 1994, Arts. 1–7.
[59] Okwara, "Administrative Discretion," 120.

In addition to the aforementioned valuation, customs officers are also granted powers of seizure and forfeiture under CEMA. Although such authority is essential in ensuring compliance, it has often been misused due to CEMA's extensive language[60]. As explained, Section 167 limits the scope of seizure and forfeiture to only the "goods liable to forfeiture." However, the term is broad and is neither defined nor understood, leaving its meaning to the subjective interpretation of the officer[61]. For example, many importers have complained that their goods are seized semi-indefinitely without judicial review or administrative solution. As the Constitution may have it[62], such sanctions violate the right to fair hearing and property defense and inject uncertainty into the Nigerian trading atmosphere. Regulation suggests that sanctioning and other discretionary initiatives authorized by the legislation should include procedural justice, transparency, and judicial oversight. In other circumstances, the statutory powers of customs officers will serve as a whip rather than an instrument of justice[63].

Secondly, there is the issue of the exercise of administrative discretion by the customs officer, for instance, in the course of operational decision-making regarding border enforcement and post-clearance audits. While the lawful authority of customs officers is granted to them, discretionary action goes on to form an integral part when carried out in the absence of clear statutory requirements and outside bodies to review determinations[64]. Researchers attribute unchecked discretion to corruption, "red tapes," and loss of revenue that is contrary to trade facilitation and compliance purposes[65] . Additionally, determinations involving administrative discretion are not documented hence an aggrieved importer cannot challenge a decision in a court of law. The lack of proper documentation contradicts administrative law and the principle of accountability as per the record-keeping act. Measures aligned to these reforms include the automation of customs processes, upgrading the knowledge of customs officers, and the inculcation of an internal review board.

Finally, despite the seemingly broad enforcement authority extended by the statutory framework, the conceptual limits of customs power concern the ideas of constitutionalism and due process. In fact, the NCS not acts on behalf of the sovereign but is rather a public institution under the rule of law and judicial accountability. Hence, inaction or delayed action of the customs officers, arbitrary seizures, and extortion are in any case inherently unjust and unfair procedures that contradict the very concept of NCS under the Nigerian Constitution[66]. It is through the supervisory jurisdiction that is exercised by the common law courts that the legality and the proportionality of the customs

[60] Customs and Excise Management Act (CEMA), Cap. C45, s. 167.

[61] Okwara, "Administrative Discretion," 124.

[62] Constitution of the Federal Republic of Nigeria, 1999 (as amended), s. 36(1).

[63] WTO, Customs Valuation Agreement, 1994, Art. 18.

[64] Okwara, "Administrative Discretion," 126.

[65] *Ibid*., 128.

[66] Constitution of the Federal Republic of Nigeria, 1999 (as amended), s. 36(1).

enforcement actions are assured. At the same time, in the international best practices, the customs departments of different countries are encouraged to adhere to the ideas of transparency and

predictability, and the trade should be facilitated rather than controlled punitively. More broadly, the systematic strength of the customs system is in the balance between the scope of fiscal protection and the respect to legal and human rights.

5.0. Legal Protection of Importers and Available Remedies

The Nigerian legal system recognizes the need to protect importers against the arbitrary and excessive actions of customs authorities in places such as property seizure, valuation disputes, and denial of due process. The fundamental right to property and the right to fair hearing in Sections 44 and 36 of the 1999 Constitution[67], respectively, constitutes the foundation of importer protection in the trade regulatory regime. These rights ensure that government agencies, such as the Nigeria Customs Service, enforce fiscal measures and seize operations within the limit of the law. As set out in Section 1 of the 1999 Constitution, any customs action that breaches fundamental rights is null and void as if it never existed. The Constitution enjoins importers to follow the law to challenge unjust enforcement. In this sense, the Constitution provides the ultimate legal barrier against excessive use of administrative discretion.

Besides constitutional safeguards, statutory provisions enshrined in the Customs and Excise Management Act and the Finance Acts also institute procedures intended to check the enforcement powers possessed by customs officials against the rights of importers. According to Section 145–151 CEMA, before seizing consignment, it is mandatory for the customs officer to give a written notice to the transactor in question[68]. To safeguard the importer more, CEMA also reserves the right to an aggrieved person by the actions of customs to question authority by suing it through the appellates to challenge the legality of their actions. Likewise, Section 68[69] of the Finance Act 2020 also underscores the principle of observance of justice and procedural requirements on administrative actions with a bearing on taxpayers, including the importers. In this respect, the provisions affirm a critical supposition that the customs administration enjoys no liberty to act above the law and it must confine itself to authority so far statutorily authorized. The legislative doctrine underlying, thus, embodies the dictates of natural justice and the considerations of the investment. There is a constitutionalized right to seek redress in case of administrative abuse.

When faced with administrative infractions, importers can resort to judicial review to invalidate any illegal decision-making, and procedural lapses done by customs officers. Judicial review is a constitutional process that allows courts to examine and validate the legality and rationality of administrative activity. According to *Ariori v. Elemo*[70], the Supreme Court opined that executive action shall not be permitted to escape judicial oversight where an individual's right has been not reckoned with statutory authorizations. Consequently, importers can secure orders from the Federal High Court invalidating any unlawful seizure of goods, arbitrary valuation determinations, or

[67] Constitution of the Federal Republic of Nigeria, 1999 (as amended), ss. 36, 44.

[68] Customs and Excise Management Act (CEMA), Cap. C45, Laws of the Federation of Nigeria, 2004, ss. 145–151.

[69] Finance Act 2020, s. 68.

[70] *Ariori v. Elemo* (1983) 1 SCNLR 1.

illegal penalization[71]. This proper and appropriate judicial intervention mechanism can tame administrative high-handedness while reinstating the preeminence and guardianship of the rule of law. Judiciary review is, therefore, the most effective tool for impeding importer rights against executive inflations that exist.

Civil claims for damages or compensation constitute another means of remedy for the importers concerned. Whenever unlawful detention or seizure of goods leads to damage to the economic interests of the importers, they can seek redress from the judicial system. The Nigerian courts have consistently recognized their jurisdiction to award damages to victims in administrative abuse cases, reiterating that public agencies should function within the law. The *Court held in Ocean Steamship (Nig.) Ltd. v. FIRS*[72] that an aggrieved party could seek damages in case unjust exercise of administrative discretion materializes to economic loss. Therefore, civil remedies serve the purpose of retributive justice by penalizing public officials into limiting their actions. Since small and medium-scale businesses, like the importers, may lack the bargaining power to encounter the state directly, this category of judicial remedy is particularly helpful. Civil claims, in essence, operationalize the constitutional protections by providing a clear avenue to meet justice.

Another critical institutional safeguard for importers created under this new 2025 legal framework is the Tax Appeal Tribunal. Firstly, Joint Revenue Board Act 2025 expressly establishes and empowers the TAT as the centralized court of first instance for tax and customs disputes throughout the federation, including pre-eminence in hearing appeals from both state and federal revenue instruments and adjudicating customs disputes arising from the review of customs valuations and other enforcement actions[73]. The Act 2025 also establishes the TAT's funding and administrative structure to safeguard its independence and strengthen its accessibility. The JRBA 2025 subsidiary legislation implements this single- window approach by also establishing parallel customs and tax administrative and policy initiatives to the 2025 unification. The NRS Act 2025 creates the unified Nigeria Revenue Service and establishes a new enforcement regime for customs and internal revenue administration. These 2025 institutional safeguards combine administrative efficiency with expanded procedural and enforcement tools to protect taxpayers. The establishment of a harmonized, centralized TAT under the JRBA increases administrative efficiency, reduces taxpayer transaction costs, and promotes uniformity across jurisdictions. Under the Joint Revenue Board Act (2025) business model, the TAT is empowered to hear cases, as well as set monetary and judicial thresholds to adjust for inflation, establishing a small claims court mechanism.

[71] See *Attorney-General of the Federation v. Attorney-General of Abia State* (2002) 6 NWLR (Pt. 763) 264.

[72] *Ocean Steamship (Nig.) Ltd. v. Federal Inland Revenue Service* (2011) 4 TLRN 77.

[73] Joint Revenue Board (Establishment) Act, 2025, ss. 29–30 (establishing the Tax Appeal Tribunal, expanding its jurisdiction to cover federal and state revenue disputes, and providing for funding and administration).

Nonetheless, Nigerian courts do not consistently protect the rights of importers, particularly when procedural technicalities or competing jurisdictional claims are involved. For example, the Court of Appeal in *Comptroller-General of Customs v. Integrated Logistics Services Ltd*[74]. upheld the

importer's limited right of action against Nigeria Customs Services's permit enforcement. Such judicial minimalism sometimes compromises claims of a fair hearing under the Constitution, and destabilizes commercial transactions. This exemplifies the dialectical challenge between efficiency and rights in the customs framework. Courts should develop an approach to interpretation that recognizes the need for efficiency and the importance of upholding rights. This integration calls for a court that cabined by the obligation to protect economic governance and constitutional justice.

6.0. Challenges and Policy Implications

i. Corruption and Rent-Seeking Practices

Customs operations are plagued by endemic corruption and continue to hinder transparent trade administration. Unofficial payments and discretionary waivers distort the proper assessment of import duties and result in sizable revenue leakages. Such practices further entrench public indifference to the government and maintain the high cost of conducting legal business in the country. The exploitation discourages importers from perceiving the custom system as service-orientated.

ii. Inconsistent Valuation of Goods

Due to the lack of standardized valuation procedures between ports and commands, duty calculation becomes arbitrary. Importers suffer from unexpected and random charges, which, in many cases, directly violate the principles of the WTO Customs Valuation Agreement. This makes foreign businesses uncomfortable and vague about their prospects in the long run. In addition, it creates fertile ground for corruption and creates unfair conditions for competition between different traders. This is especially important during the COVID-19 pandemic when many businesses are hardly surviving.

iii. Weak Institutional Oversight

Moreover, insufficient internal monitoring enables customs officers to abuse their discretion. The systems of audits are not proactive and serve as a tool of damage control after the losses have already happened. This weakness of the institution negatively affects accountability and professionalism. In the absence of proper checks, the system is susceptible to both collusion and external influence.

iv. Cumbersome Administrative Procedures

Clearance operations are plagued by high transaction costs and delays resulting from manual documentation and highly overlapping approval processes. In addition, the absence of harmonized digital systems between customs and other border agencies is contributing to the continuous delays in trade flows, which is not in line with the acceptable global standards advocated for by the World Customs Organization. As a result, these bureaucratic inadequacies are preventing foreign investment and regional trade integration.

[74] *Comptroller-General of Customs v. Integrated Logistics Services Ltd*. (2018) 9 NWLR (Pt. 1625) 505.

v. Limited Technological Infrastructure

In many ports, customs operate their systems using primitive technology that does not allow for verifying the information in declarations in real-time. Poor automation facilitates fraud, misclassification, and underreporting of the true values of the imported items. Such a lack of digitization leads to an inability to use a data-driven approach and effectively cooperate with other federal agencies. Therefore, Nigeria's customs administration is not achieving the benchmarks of high-performing economies.

vi. Political Interference and Policy Instability

Making policy reversals and politically motivated decisions lead to inconsistency in the enforcement of customs. Many times, political actors influence duty waivers, realign tariffs and border policies to suit their short-term interests. This creates fear among importers and investors whose activities depend on stable and predictable regulatory frameworks. It also undermines institutional integrity by reducing enforcement into a political convenience.

vii. Inadequate Human Capacity and Training

Moreover, due to a lack of appropriate training, many customs officers are completely unequipped in terms of modern valuation, the management of risks, and digital trade systems. As an ultimate result, skill gaps lead to procedural mistakes and slow habituation to the world's best practices. In addition, continuous in-servicing is financially undermined, which diminishes the qualification of enforcement officers. Thus, it is arguable that the success of modernization hinges upon investing in capacity and ethics.

0.8. Conclusion and Recommendations

To summarize, the scope of this article has allowed for analyzing the role of taxation of goods imported in Nigeria against the statutory limitations on customs authority and the rights of importers. The study demonstrated that despite the fundamental importance of the administration of customs duties for the financial and trade policy of Nigeria, proportionately numerous interpretations of widespread arbitrary appraisals, the wanton appearance of penalized goods and excessive play of administrative discretion undermines the rule of law and trust in the country as an investment destination. The analysis of the Customs and Excise Management Act, associated legal terms, and recent fiscal laws reveal that authorities in the Customs Service exercise arbitrary powers beyond the regulation of the legal system, pending substantial reforms. The study, therefore, reaffirms the thesis that bureaucratic extremes and lack of oversight present serious threats to the constitutional protection of right to fair hearing and property. The legal framework must therefore bring the collection of profits into balance with the requirement of equality of arms, accountability, and transparency in trade policy.

It is evident that, to restore legality and efficiency in customs administration, several pragmatic reforms must be urgently made. Firstly, the Customs and Excise Management Act should be codified extensively to bring it in line with modern international trade laws, expedite and clarify the process of goods valuation, and precisely circumscribe enforcement powers to avoid their abuse. Secondly, institutional reorganization of the Nigeria Customs Service is needed by separating revenue collection and enforcement and conflict resolution activities to diminish conflict of interest and its arbitrariness. Thirdly, all customs activities should be digitalized, including electronic documentation and valuation and live-time clearance, to curb corruption and enhance its

manageability. Fourthly, the courts in Nigeria should exhibit judicial activism to ensure robust interpretation of powers creates a balance between lawful due process and protection of importer's interests. Finally, Nigeria's citizens, as well as all other stakeholders, should be more educated about customs-related issues to create additional incentives for voluntary compliance, accountability improvement, and trust transformation in Nigeria's trade regulation system.