INTERNATIONAL JOURNAL OF INNOVATIVE RESEARCH & DEVELOPMENT

ISSN 2278 – 0211 (Online)

Free Movement of Goods and Trade Liberalization in the Economic Community of West African States (Ecowas): A Critical Evaluation

Dr. Michael P. Okom
Associate Professor, Department of Law, Faculty of Law, University of Calabar, Calabar, Nigeria
Dr. Michael T. Otu
Multi-Disciplinary Scholar, Law of Secured Credit Transactions/ Property Law, Legal Practitioner cum Senior Lecturer, Faculty of Law, University of Calabar, Calabar, Nigeria
Dr. Chidi Lloyd
Legal Practitioner, Port Harcourt, Rivers State, Nigeria

Abstract:
This article examines the aims and objectives of Economic Community of West African States (ECOWAS) in the realization of free movement of goods and capital between states. Actually freedom of movement of goods and capital is still a myth and not a reality by ECOWAS member states and many of the indicia for actualizing the objectives have not been put in place. The idea of trade liberalization scheme was mooted in the first place to facilitate the dream of the community for free movement of goods across the borders. Thus regional integration was expected to lead to expansion of markets and the removal of trade barriers amongst member states as required by the Trade Liberation Scheme (TLS) with the sole aim of coordinating industrial planning for the purpose of enhancing the process of regional economic growth and development. Thus, this paper explores the fact that economic integration is a necessity amongst member states if the region is to achieve any meaningful sustainable economic growth. This paper further identifies the problems of implementation of the Trade Liberalization Scheme (TLS) and pointed out efforts made by the Authority of Heads of State and Government by ameliorating those teething problems. The paper examines the fact that capital is the vehicle that moves goods and goods are usually paid for in the local currency which is dogged by the problem of exchange rates and local financial regulations. The paper also attempted proffering solutions on how to surmount the bottlenecks associated with exchange rates by suggesting the use of local currencies by community citizens for payment of services rendered in connection with travel within the region. And finally, recommendations for more effective approach towards the realization of economic currency by members of ECOWAS states is strongly being advocated for and the need for Nigeria as the giant of Africa to occupy the vacant positions of an acclaimed integration leader in the region are issues strongly canvassed as palliative measures which if put in place will go a long way to achieve self-sufficiency for the member states especially by creating a single large trading area.

Keywords: *Trade-Liberation, globally, quota, custom duties, import duties, tariff, protocol, capital*

1. Introduction

As salutary and beneficial as integration has been globally and despite the fact that the template for integration has been drawn up by the ECOWAS members in recognition of this fact, the system is still more of illusion. Freedom of movement of goods and capital is still a mirage and many of the indicia for actualizing that objective are not in sight.

Article 35 of the Revised Treaty States thus:

- There shall be progressively established in the course of a period of ten (10) years effective from 1 January, 1990… a customs Union among the Member State within this Union, customs duties or other charges with equivalent effect on community originating import shall be eliminated. Quota, quantitative or like restriction or prohibitions and administrative obstacles to trade among the member states shall also be removed. Furthermore, a common external tariff in respect of all goods imported into the member states from third world countries shall be established and maintained.

Further provisions have to do with customs duties, common external tariff and others.[i]

The core aim and objective of the Community is the establishment of a common market through the liberalization of trade by the abolition of customs duties on imports and exports and the abolition of non-tariff barriers in other to establish a free trade area at the Community level.[ii] Under article 3(d) (iii), (e), the Community also aims at removing obstacles to the free movement of goods, services and capital and to establish an economic union through the adoption of common polices in the economic and financial spheres and the creation of a monetary union.

The Trade Liberalization Scheme (TLS) was put in place to facilitate the dream of the Community for free movement of goods across the borders. Regional integration was expected to lead to expansion of markets and the removal of trade barriers amongst Member States as required by the TLS, was aimed at facilitating coordinated industrial planning for the purpose of enhancing the process of regional growth and development. The removal of the TLS entails, inevitably, a process of looking inward, although the centrifugal forces of ECOWAS convergence must contend with the centripetal forces of affinity with other market especially the European market. However ECOWAS Member States understood that economic integration is a necessity if the region is to achieve sustained economic growth.

At the 12thSummit of the ECOWAS,[iii] the Authority of Heads of State and Government fixed January 1 1990 as the take-off date for the ECOWAS Trade Liberalization Scheme (TLS).[iv] As of 1969, all customs duties, taxes and non-tariff barriers on Community goods had been consolidated and frozen by each Member State. All non-tariff barriers on Community goods were expected to have been removed by January 1994. Unprocessed goods and handicraft/artisanal products were ceased to attract any tariff within the Community. With respect to industrial products, tariff reduction and subsequent elimination were reserved for enterprises which successfully pass the selection and approval procedure laid down by the ECOWAS Council of Ministers in June 1988.[v]

The Schemes started off with 25 approved industrial products. The expectation of the Community was that: "this important regional cooperation programme would stimulate intra-community trade, revive and expand the production base of the entire West African economy and further enhance the region's capacity to meet the challenges of the 1990s."[vi] In the words of Professor Ode Ojowu, the Trade Liberalization Schemes was "aimed at systematically reducing and eliminating tariff and non-movement of goods. The schemes covered… traditional handicraft, unprocessed goods and industrial product."[vii]He added that, 'the removal of tariff and non-tariff barriers remained and continues to remain a major pro-occupation to realise the objectives of the TLS."[viii] Dr. Chambas underscored this viewpoint thus: "the cross border obstacles…at the frontiers where the processing of document is extremely cumbersome and fraught with harassments, intimidation and …plain extortion…you still find a lot of unauthorised checkpoints and roadblocks. All these stand in way of free movement of a person especially with regards to free movement of goods."[ix]

According to him, there are still so many non-tariff barriers. The ECOWAS protocols have abolished tariffs with regard to goods that are substantially produced in and ECOWAS Member State and exported to other ECOWAS States, and as Chambas indicates, "there are so many non-tariff barriers and arbitrariness on the part of customs, immigration and other security agencies…"[x]

One major aspect of the TLS is the information of a Custom Union which involves the gradual establishment of a common customs tariff in respect of all goods imported into the Member States from third countries and the abolition of existing differences in their external tariff.[xi] The Trade, Customs, Immigration, Money and Payment Commission are expected to set up a common customs nomenclature for all the Member States. The Customs Union was to be "progressively established"[xii] in the course of ten years from January 1, 1990, *i.e.* by 2000. The "progressive establishment" was to take into consideration, the different levels of socio-economic development of the members.[xiii] The removal of trade barriers was to be made beneficial through such measures as cooperation in trade, standardization and harmonization of the Community Customs Code/Valuation and External Tariffs.[xiv]

Several issues arise with respect to the implementation of the TLS. First, within the context of efforts aimed at ensuring free movement of goods, the Authority of Heads of State and Government reached a decision, calling for national committees to be set up to monitor the implementation of ECOWAS Decisions and Protocols on free movement. Some States have complied,[xv] but on the whole, given the numerous obstacles to the free movement of goods in Member States, the monitoring committees have failed in their set objectives.[xvi]

Current reports corroborate the foregoing observation. The official in charge of harmonizing ECOWAS policies[xvii] has stated that cross border traders "are still confronted with customs barriers…which results in considerable loss of earning."[xviii] In the face of all these unsavoury realities, the ECOWAS Commission has not done beyond admitting that it receives regularly, Community citizens' distress calls and complaints of harassment, intimidation and extortions and all form of illegal levies not recognized by the protocol being collected by the security operatives. No mechanism has been put in place to address this rampant violation of the rights of commuters by the Commission. The situation is as if there is no protocol in place. Along the Lagos-Seme road, there are about 40 checkpoints, which are so much more than two checkpoints per country as stipulated by ECOWAS. As Dr. Bundu puts it in an address to the ECOWAS Council of Ministers in July 1991, the rigorous checks and conditions enforced on Community citizens at entry points "completely negate the spirit and letter of the protocol on Free Movement."[xix]He emphasized that the ECOWAS protocols, adopted to facilitate movement of passengers and goods in transit across borders have not made any difference to the constant harassment that road users are subjected to on West African highways. This has contributed in large measure to the slow movement of goods and person across our highways. The feeling among most ECOWAS citizens is that the promise of the protocol rings hollow.

Another vexing legal issue is the absence of a uniform tariff system. Some goods are lawful in some country while unlawful in others. This is inextricably intertwined with the even more vexing issues of the absence of the much expected, Customs Union. This writer agrees with Wakili that "if there is the type of harmony of movement of goods and services, like is obtainable in EU countries, it will aid free movement."[xx] He averred that "political will" from the leadership is required if the proper implementation of the protocol is to be achieved because the average policeman, customs or immigration officer on the road cannot on their own take decisions to remove checkpoints. Indeed, since free movement is vital to ECOWAS' integration dynamics, there is need for total elimination of continuous harassment and extortions along our borders."[xxi] The current customs scenario is a marked travesty of the Treaty/Protocol, both of which unequivocally oblige Member States to reduce and ultimately eliminate customs duties and any other duties with equivalent effect. What obtains in reality is that good at boarders are "re-landed at various customs territories before allowed to move on…" and "these multiple examination and controls constitute a lot of delay in ECOWAS sub-region."[xxii]

The problem is that countries of the sub-region rely on revenue from imports to meet several socio-economic development needs. But there must be a balance between the revenue drive and economic integration if the protocol on free movement of goods is to have any meaning. The stark reality is that ECOWAS countries are still charging custom duties and irregular tariffs. In other words, the protocol is as yet, merely a “white elephant project” which is quite unfortunate because it puts paid to the glorious prospects of economic integration effusively advocated by major ECOWAS stakeholders and encapsulated in the articles under discussion. In the current situation, the Protocol cannot of course be the catalyst for economic regional integration that it was designed to be. Added to the foregoing is the problem of extortion by customs officials. A merchant[xxiii] recounted his experiences at some ECOWAS borders thus: “the custom officials at the Ghana/Cote d’ Ivoire border collected a bribe of 20,000 CFA Francs from me for every cargo. Before passing the border with goods, you must pay money.”[xxiv]The situation poses the question as to what kind of Union the region operates in practice, since the establishment of the Economic Community of West Africa States (ECOWAS) in 1975, especially in terms of free movement of persons and goods trade liberalization and monetary union. In view of some concern stakeholders, the “entire region is a cesspit.”[xxv]

The paper quotes another commuter who opined that those who decide policy direction or immigration and emigration in ECOWAS countries make huge fortunes through corruption at the border posts. “So”, he queries, “where is free movement and borderless region? How can prices of goods be reduced, according to the protocols, for the end consumers, who are at the majority across the region?” States form a customs union when the levy common external tariffs against outsiders while freeing trade within the union. This is the case the CEAO and the Mano River Union. In a Free Trade Area, which is a lower level of integration than a custom union, each Member States removes its tariff against Member States while retaining tariff against non-members. Members also aim at maximizing trade with the outside world. Unfortunately, this is not the case in ECOWAS. The ECOWAS Free Trade Area was intended, as Dr. Chambas, the Executive Secretary of ECOWAS, has rightly pointed out, to allow the integrations of fifteen (15) weak and fragmented markets into a healthier and more prosperous market.[xxvi]

Indeed, a common market allows free movement of labour and capital among Member States. If the provisions of ECOWAS are fully implemented, the Community will have all the attributes of common markets.[xxvii] The regime was to have been functional since 2004, but as at the time of this writing, no mechanism or infrastructure had been put in place. In fact, as Chambas further points out, some ECOWAS Members States have, contrary to the provisions of the Protocol, increased import duties on Community goods to generate revenue for their government, at the detriment of effective implementation of the scheme.[xxviii]

Be that as it may, this author maintains that the formation of a Customs Union among less developed countries would lead to the benefits of economies of scale. In addition, Customs Union would create a larger market and thereby facilitate the process of industrialisation and that as Member States proceed with industrialisation, they would develop exports which would make it possible for the other Member States to finance and increase their imports from the Union.[xxix] Thus, the ECOWAS Treaty/Protocol on Free Movement of Goods is a move in a progressive direction but it faltered after a few baby steps, collapsed and has remained virtually comatose since then.

The various institutions within the Community have traded blame for this sorry pass. The Nigeria Customs Service attributes the problems to the private sector, ‘mostly importers who are more interested in circumventing fiscal policies as well as import and export regulatory frameworks.”[xxx] Importers claim that they are “being frustrated by government agencies, immigration, customs and the police.”[xxxi] They allege that most times, truckloads of goods crossing the borders have to stay at the boarders for long periods, to go through cumbersome formalities even when documents have been provided. This is in addition to further delays at the several police and customs posts. They lamented that “all these happen in spite of the numerous protocols that have been adopted at the level of ECOWAS to facilitate free movement of goods.[xxxii]

In his paper at the forum, Mr. Jacob Buba pointed out that while the Protocol on Free Movement covers only goods produced in ECOWAS States, most imported goods from countries outside the region come to ECOWAS countries where they are repackaged and exported by road. He then asked, “In this circumstance, what do you expect customs officers who discover such infractions todo.”[xxxiii]He added that there are other problems such as false declaration of documents relating to imported goods, uncoordinated trade promotion or facilitation, describing these as the greatest challenge to the economic integration of the region.

Some token steps have been taken to ameliorate the abysmal *status – quo*. In February 2007, an ECOWAS Groups of Experts drew up draft supplementary harmonised laws, adopting the Community’s rules on investment. The aim is to make integration more convenient and attractive, especially for the less developed countries who are more likely to derive benefits and are certainly the most ‘sensitive’ to any imbalance in the distribution of gains from economic integration.[xxxiv]Intra community trade facilitation is also being pursued through the harmonization of customs procedures and the implementation by Member States of the adopted harmonized texts. In fact, in the context of economic cooperation and integration, monetary and fiscal policies assume more significance, and harmonization is expected to lead to maximization of ‘welfare gains’ and benefits which would otherwise not have been attained.[xxxv]

This is as yet unattained. For the past eight years, activities towards introducing a common tariff have been on. They include the adoption of a regional strategy and mechanism for forgoing the Customs Union and the integration of the Common Tariff into the budgetary and fiscal policy framework of Member States. Harmonization of Community Customs Code and Valuation Forms were initiated and abandoned but there can be no escaping the unsavoury effect of non-harmonization because regulation is inevitable, to minimise undesirable development.[xxxvi]

The Authority of Heads of State and Government realise that the creation of an ECOWAS Common Market under the Trade Liberalization Scheme requires a supranational framework to manage issues of competition and investment with a view to strengthening the free movement of goods and capital. Draft legislation to birth the framework has been drawn up but as usual, it is currently nestling in the ECOWAS Secretariat's cabinets – unutilized. The failure to establish a legal regime for harmonisation is a grave bane of the Community. This is because differences of perception and conflicts can only be resolved on the basis of a common legal framework which unifies and harmonise rules of customs, trade practices and payment procedures. This emphasises the point that legal integration from a multi-judicial perspective is an indispensable foundation for economic integration. More so, without it, the Trade Liberalization Scheme (and its components of Customs Union and Common Market/Tariff Regime) will not become functional.

Professor Ladan stresses the point pungently. According to him, "economic integration… is about member states adopting and implementing measures that would make doing business within the group cheaper by removing all constraints to intra-regional trade and investment and adopting measures which are conducive to trade and investment… The elimination of legal obstacles is vital to the effective functioning of any integration schemes in Africa."[xxxvii] Ladan has identified the lack of appreciation of the value of an integrated Community legal order, through the harmonisation of business legal regimes as a pernicious lacuna in the Community's policy-making/implementation mechanisms.[xxxviii] It does appear that the drivers of the ECOWAS ship of States have not directed their minds to this crucial parameter of integration. But it would have to be addressed if progress is to be made. When in place, it will be the fulcrum that will propel the lever of the TLS. The government and the private sector have to be more proactive if enterprises have to take real advantage of the enabling environment being provided by the present sub-regional government.

2. Free Movement of Capital vis-A-vis Financial Integration

The aims and the objectives of the ECOWAS include the removal between Member States, of obstacles to the free movement of persons, goods, services and capital and the creation of a monetary union, which involves financial integration. The regime of free movement of capital is a corollary of that of free movement of goods. Capital is the vehicle that moves goods. Usually, goods are paid for in the local currency, which is dogged by the problem of exchange rates and local financial regulations. The free movement of capital envisaged a free flow of capital without these customary and usual obstacles.

In order to surmount the bottlenecks association with exchange rates, the ECOWAS Council of Ministers made a decision in 1992 on the use of local currencies by Community citizens for payment of services rendered in connection with travel within the region. The decision was aimed at achieving, in the short-term, regional currency convertibility through the increase use of local currencies for intra-regional transactions. It states in Article 2 that, "no discriminatory measures shall be applied by Member States against Community citizens with regard to the use of local currencies to pay for services rendered while travelling within the region." Article 3 enjoins Member States to allow the use of local currency by Community citizens to pay for services rendered such as airport service charges, hotel bills and purchase of air ticket.

The Executive Secretariat is saddled with responsibility of monitoring the implementation of this decision and make periodic reports to the Council of Ministers.[xxxix] As at the time of this research, this decision had not been implemented. The main reason is that the Member States are yet to agree on a uniform exchange rate. This is compounded by the unstable and weak nature of currencies of ECOWAS States, whose value is determined, not by any regional monetary parameter, but by the dollar. The West African Monetary Institute was set up to *inter-alia*, study the issues of exchange rate parities within the West African Monetary Zone and recommend appropriate exchange rate mechanisms and parities for the existing currencies. In addition, it was to determine the appropriate bands of fluctuation for currencies in the zone.

It is pertinent to note that the problems militating against the free movement of capital have been reduced considerably among the French-speaking West African countries as a result of the introduction of a single currency, the CFA. Thus, it can safely be asserted that the free movement of capital as envisaged in the ECOWAS Protocol has been attained in the CFA States, under the auspices of the Union "economique at Mone'taire ust-Africaine (UEMOA).[xl] A September 2002 IMF survey of all the regional groupings in West Africa stated that UEMOA was "the furthest along the part toward integration."[xli]

Allied with the creation of a common market, financial and monetary integration is the hallmark of the ECOWAS[xlii] Community policy framework. It is a policy aimed at furthering the aims and objectives of the Community to "promote regional economic integration and cooperation and harmonize national monetary and finance polices, the establishment of an economic union through the adoption of common policies in the economic, financial and other sectors and the creation of a monetary union." In the lexicon of economic integration, harmonizing of monetary and fiscal policies may simply be defined as the adoption and implementation of policies in coordinated manner to achieve certain agreed common objectives.[xliii]

Money occupies a crucial place in the economic development of nations. It encourages trade and specialisation and caters for the welfare of citizens. Financial and monetary integration, to be meaningful, has to go hand in hand with political regionalism. The European Community has largely succeeded in its pursuit of economic and monetary integration because of its success at regionalism. In order for it to succeed in West Africa, the governments would have to be committed to its gestation. Obiozor states categorically that "the member states of ECOWAS are not yet committed to the goal of monetary integration although very desirable and the current global advance in the direction of regionalism…addresses the importance of economic integration for the survival of national economies."[xliv] This ought to make it easier for States to surmount the costs of integration such as loss of autonomy over policy.[xlv]

The case for monetary/financial integration is incontrovertibly persuasive. Policies in this area have positive impact on the economy at both national and regional levels. The monetary policy tools that ECOWAS States need include exchange rate parameters, including bills and stocks.[xlvi] The parameters for financial/monetary integration in West Africa are basically the common currency scheme to be implemented with the framework of an ECOWAS Monetary Union. The Union would provide the platform for the operation of the ECOWAS single currency. To this end, the ECOWAS Monetary Cooperation Programme, (EMCP), was introduced in 1987, to promote financial and monetary cooperation among the Member States with the ultimate objective of achieving a single currency after a convergence process.[xlvii] The initiative made very little progress due to the slow pace in attaining the stipulated convergence criteria,[xlviii] which was particularly germane in the area of exchange rates. Asante opines that the justification for harmonizationcould be seen in diversified exchange regimes and payment restrictions that prevail in the sub-region. There is considerable dichotomy in the exchange rates among the currencies of the sub-region. There are countries in the ECOWAS sub-region that have independent national currencies whose exchange systems have been characterized by diversity of rigid payments restrictions.[xlix] All these problems are expected to be eradicated by the 'magic wand' of the ECOWAS single currency, which is one of the cardinal planks of the ECOWAS monetary integration programme. Further legal and legislative foundations for monetary integration are enshrined in Articles 51-55 of the Revised Treaty. They state *inter alia* that:

- In order to promote monetary and financial integration and thereby facilitate intra Community trade in goods and services, Member States undertook to "establish a community Central Bank and a common currency zone."[l] A Committee of West African Central Banks was also set up and given the responsibility to, "from time to time make recommendations to the council on the operation of the clearing system of payment and other monetary issues within the Community."[li] In order to ensure free movement of capital in the Community, a Capital Issues Committee was put in place which was assigned the responsibility of seeing to the unimpeded flow of capital within the Community by removing controls on the transfer of capital, encouraging the establishment of national and regional stocks exchanges and the 'interlocking' of capital markets and stock exchanges.[lii]

The ECOWAS Monetary Union was to be established for the purpose of adopting common financial and other policies and "the total elimination of all obstacles to the free movement of ...goods, capital and services …"[liii]The Union is expected to enable "the harmonization of monetary, financial and fiscal polices,…the establishment of a single regional Central Bank and the creation of a single West African Currency."[liv] Masson and Pattillo argue that a single currency is attractive and desirable, in considering the possible net economic benefits of monetary union." They stated that "one of the reasons for proceeding to monetary union quickly is to promote improvement in macro-economic policies and to enhance prospects of regional integration, including regional trade."[lv]

In pursuit of the monetary integration goals of the Treaty, the ECOWAS Monetary Cooperation Programme (EMCP) was set up by the Authority of Heads of State and Government of ECOWAS in 1987, to bolster intra-regional payment systems, achieve monetary stability and deepen financial systems.[lvi] The Community sought, through the EMCP, to achieve monetary union by 1994, later extended to 2000, then 2009 and now, 2015. The ECOWAS Bank for investment and development is assisting ECOWAS much towards the realization of this goal.[lvii] In fact, in February 2005, Professor Chukwuma Soludo, the erstwhile Governor of the Central Bank of Nigeria, unequivocally asserted that "the second common currency for the Economic Community of West African States (ECOWAS) would take off by December 1, 2009."[lviii]

Under the ECMP, the West African Monetary Agency (WAMA) was established for the purpose of "conducting the ECOWAS Monetary policy."[lix] It also had the responsibility of advancing the harmonization process by enhancing the level of its contracts with the UEMOA the Central Banks and other relevant institutions within the region.[lx] It was also expected to accelerate the drive towards convergence and monitor convergence indicators.[lxi] These were expanded in 1998 and a set of convergence criteria were laid out, to be implemented from 1999-2003.[lxii] If the process had succeeded, the single monetary zone was to have been launched on January 1 2004 but it failed. The gravitation towards convergence has not been aborted but the process is very slow.

WAMA was an administrative body whose stock-in-trade was mainly policy modalities and frameworks. There was need for a body to deal with the technical aspects of the flotation of a common currency. Thus, the West African Monetary Institute, (WAMI) was born in Accra, Ghana in January 2001. One of its basic functions was to monitor the state or macro-economic convergence of Member countries *vis-à-vis* the prescribed primary and secondary convergence criteria. The primary criteria were, *inter alia* ratio of budget deficit than 4% inflation rate should be 5% by 2003; and the gross external reserves to represent not less than 6 month imports. The secondary criteria were, *inter alia*, prohibition of new domestic arrears; tax revenue / GDP ratio to be equal to or more than 20%; wage bill/ tax revenue to be equal to or less than 35% and; public capital expenditure/tax revenue ratio to be equal to or more than 20%.[lxiii]WAMI is also to ensure the harmonization of banking regulations and accounting practices of all the participating countries; recommend appropriate exchange rate mechanisms and parities for the existing currencies in the second monetary zone and do a technical and design background work on the new currency.

The institute is also to create the conditions for a smooth transition of the new common currency by ensuring that regulations in all countries are consistent with the introduction of a new currency; prices are (to be) quoted in the new currency as well as any other practical issues that would facilitate the smooth introduction of the new currency and withdrawal of old currencies.[lxiv] It is also the Institute's responsibility to set up the ECOWAS Central Bank, having to do with drawing up the legal framework of the Central Bank making proposals for selecting the headquarters, recommending modalities for contributing to the capital and other issues. The Institute has stated in a report that it has "since its inception, been undertaking relevant activities that would enable it achieve its mandate as contained in its statute. It is envisaged that it would be able to accomplish its tasks to enable the common central bank to take off smoothly by December, 2009 as planned. It is hoped however that the member countries would maintain their commitment to meet the convergence criteria and other obligation."[lxv] From the foregoing, it is incontestable that its success is dependent on the cooperation of the member countries. As at the time of this research, none of the member countries of WAMI have met convergence criteria. This is so despite the declaration by the WAMI Head of States and Government in 2005, (during the setting up of the West African Monetary Zone (WAMZ), that the 2009 dead line for the launch of the second regional currency (eco) was irrevocable.[lxvi] The setting up of WAMI generated much needed momentum which got the Member States closer towards the realisation of the one currency goal.

The Authority of Heads of State and Government made decision in May 1983, mandating its Chairman to Commission studies aimed at the creation of single ECOWAS Monetary Zone. In September of that year, the Secretariat convened a meeting of the Committee of Governors of Central Banks in Dakar. Its report led to the Banjul Declaration of May 2005, setting up the West African Monetary Zone, within the framework of the fast-track interrogation process. According to Professor Ode Ojowu, "the aim of WAMZ was to provide the platform for the current arrangement on moving towards a single currency in a two-step process… the floating of a second currency and then its subsequent merger with the CFA Zone to create a single Wes- African-Wide Currency."[lxvii] The WAMZ Authority approved and expanded its work programme to facilitate the establishment of the monetary union. This programme received a boost by a one million dollar grant from the Capacity Building Foundation, to facilitate the attainment of WAMZ. WAMI also received another grant from the African Development Fund (ADF) to improve the financial sector performance of the Gambia, Guinea and Sierra Leone and harmonize their payment systems, to bring them to the level of the other WAMZ Member States.

Thought the ECMP, WAMI, WAMA, and WAMZ are yet to get an ECOWAS Bank or ECO currency going, their combined efforts have created a Credit Guarantee Fund for ECOWAS Member Central Bank; put in use the ECOWAS Travellers' Cheque; and introduced the West African Unit of Account(WAUA) which is an integral part of the sub-regional payment system adopted by member countries to settle financial transactions between them without involving their scarce foreign exchange reserves.

As things stand, there is no certainty as to when the single currency will be floated. The Member States thus continue to be denied the huge benefits that such a scheme would bring. The currency would facilitate the free flow of capital within the sub-region and enhance greater in-flow of foreign capital as well as assist in the integration of the region into a single market. In addition, it has the potential to encourage legitimate trans-border trade, eliminate currency trafficking, reduce capital flight, improve the citizens' purchasing power and provide access to a variety of goods. As Olusegun Obasanjo has observed, all these will translate into the alleviation of poverty and enhance the rate of economic growth of the countries involved.[lxviii] The ECO currency is also expected to "increase trade and investment as well as enhance the movement of services and capital."[lxix] Ogunkelu opines that the Eco currency is targeted at enhancing commerce and completely eliminating the payment difficulties being currently experienced by traders and business entrepreneurs in the West Africa sub-region.[lxx]

There are myriad factors militating against the successful and timeous implementation of WAMZ *vis-a-vis* the ECO currency. The non-compliance with convergence criteria has been highlighted. The Director General of WAMI, Dr Temitope Oshikoya has identified the fear of domination by Nigeria[lxxi] as one other factor. This author contends that the fear is however untenable on account of the fact that the other countries have more to benefit than lose from having access to Nigeria's big 'market.' Another factor is the fear of loss of sovereignty and financial autonomy by states. Without mincing words, the problem of surrender of national sovereignty is a major obstacle to be tackled. Oluyemi Adeniji has opined that States should not only surrender their formal sovereignty but should only transfer executive authority for the purpose of strengthening the supernatural authority.[lxxii] Some critics have pointed out that the economies of the sub-region are too weak to develop the resilience necessary for the attainment of the economic stability needed to survive in a harmonised regional setting.[lxxiii] In addition, the economies of some countries are mismanaged. There are some issues that need to be addressed. First is the unwieldy nature of the institutions and bodies that have been set up to achieve just one purpose. The landscape is so littered with bureaucracies and this has contributed in no small measure, to slow down the birth of the Union.

In such a scenario, duplication of functions cannot be avoided. So much money is being expended on these bodies, which could have been utilised toward achieving the main goal. Inspite of this reality, some of the region's leaders still think that all is well. The former Nigerian Minister for Cooperation and Integration in Africa, said that the dreams of the ECOWAS Monetary Union was on track,[lxxiv] while the Director General of the West African Monetary Institute said that a common currency for the ECOWAS was a "forgone issue."[lxxv] In the same breath, he admitted that "certain criteria must be met to speed up the process."[lxxvi] These criteria have not been met and are not even in the process of being met. The success of the CFA common currency regime among the UEMOA ECOWAS Member States is certainly a stimulant to the effort of the ECO currency Member States.

The disturbing issue here is that there is fear in some quarters that the mind-set of some of the leading stakeholders, is that the WAMZ and the ECO currency are being established to have a "strong stable currency to "rival" the CFA ..."[lxxvii]The idea of rivalry is disturbing. It runs counter to the "Accra Declaration" which defined the objectives of the (WAMZ). The Declaration stated *inter—alia* that, "it is envisaged that this zone will be merged with the CFA Franc Zone to form a single Monetary Zone in West Africa."[lxxviii] The preponderance of opinion from an academic prospective is that the idea of the merger will be strong enough despite the spectre of rivalry; otherwise, the prospects of WAMZ will be severely hamstrung. The view enjoys support from the promoters from the ECOWAS Bank for Investment and Development, (EBID). In their view, African leaders are now aware that there is strength in numbers, especially as the West African economies are unlikely to make headway individually.[lxxix] Furthermore, by bonding together to promote the free movement of people and goods, the coastal and landlocked countries will bolster each other's economies as well as that of the region,[lxxx] and make the merger of the two zones easier. For the avoidance of doubt, the EBID is not the same as ECOWAS Central Bank. The latter is being mid wifed by the West African Monetary Institute, (WAMI) and is in the pipeline. The ECOWAS Central Bank will also act as a clearing house for the Inter-Central Bank transactions of the Member States. This will certainly take the region back to the old days when the pound sterling was used all over the ECOWAS countries.[lxxxi]

3. Conclusion

Onecardinal aim of the ECOWAS Community Treaty was to achieve self-sufficiency for the Member States by creating a "single large trading area."[lxxxii]A common market characterised by the borderlessness was also envisaged. The vehicle to implement these lofty ideals is the Protocol on Free Movement of Goods and Capital by which Member States covenanted to introduce a customs, financial and monetary union. The potential of these programmes to facilitate trade and development in the region is beyond conjecture. However, without any stretch of the imagination, it is not *uhuru*yet. Many obstacles remain to be surmounted before the Community's vision of real free movement of goods and capital will crystalise into reality.

4. Recommendations

The author hereby recommends that the members of ECOWAS should demonstrate equal commitment towards the Eco common currency. Since the members of WAMZ have a common currency already, the CFA Franc, they are naturally less enthusiastic in undertaking basic adjustments in exchange rates in league with other parities apart from the French treasury.[lxxxiii]

It is also hereby recommended that Nigeria should occupy the vacant position of an acclaimed integration leader in the region. Such a leadership position would require impeccable economic credentials, such as a domestic economic track record of monetary and financial stability, a willingness to assume responsibilities and a dominant position in regional trade and finance. Furthermore, the Member States need to muster the requisite political will to actualize the noble ideas of monetary union.

The Community has indeed taken certain steps in search of viable approach to achieve freedom of movement of persons, goods and capital across the borders. It is thus recommended that Member States should demonstrate a resolve to adhere to agreed timelines. Programmes have been developed and dates for implementation have been set, shifted and shifted again. Prof. Ajomo is of the view that the results have been modest,[lxxxiv] but this researcher would rather submit that the results have been dismal. In fact, in another contradictory breath, Ajomo remarks that expression of good intentions embodied in high level decisions have been presented and couched in the best rendering of Protocols, Declaration and Resolutions but yet "progress has not yet been clearly adequate."[lxxxv]This means that the considered the results "inadequate." It is clear that he is sympathetic to efforts of the Member States so far, but the reality is so glaring. He acknowledges that "solving the monetary and fiscal bottlenecks would promote productivity, trade, facilitate free movement of people and goods, lead to increased incomes and above all the welfare and wellbeing of the people."[lxxxvi] As a result he enjoins all stakeholders to remain committed and determined towards creating the frameworks to actualize trade, economic and monetary integration. Harmonization of monetary and fiscal policies, he says, is a laudable goal and "we must do everything possible to achieve it in our part of the world."[lxxxvii]

5. References

i. Such as Common Tariffs … Taxation Quantitative Restrictions on Community Goods, et al
ii. Art 3 of the Revised Treaty
iii. June 1989 at Ouagadougou
iv. 'Contract' Magazine, a publication of ECOWAS, VOL. 2, Sept 1990, p.6
v. Ibid
vi. Ibid
vii. The Challenges of Cooperation and Integration in the 21st Century, (Compilation of Papers all the 2005 ECOWAS Programme Implementation and Technical Review Meeting), Published by the Nigerian Ministry of Cooperation and Integration in Africa (MCIA), July, 2005, p.30.
viii. Ibid
ix. Leadership magazine, January 19, 2009, p.36
x. Ibid
xi. Compendium of ECOWAS Protocols, op cit., p. 59
xii. Art 35, Revised treaty
xiii. Ibid 2007 ECOWAS Report, p.11.
xiv. Ibid
xv. Ibid
xvi. 25 Years of Service, an ECOWAS Publication, 2000, p.19
xvii. Ibid
xviii. Ibid
xix. Ibid
xx. Vanguard Newspaper, online edition, Jan 23, 2009, p.2 (Last visited, 10 – 8 – 10)
xxi. M. Daramy, ECOWAS Commissioner for Trade, Industry Mines and Free Movement
xxii. The Punch Newspaper, 1 – 2 – 09, p.1. (author of article not indicated)
xxiii. Alhaji Sule D. Anhakimi, a clothiers merchant
xxiv. Daily Trust Newspaper, 15 March, 2008, p.1
xxv. Dr. Felix, a commuter, Daily Trust Newspaper, online, Dec. 5, 2008, p.2
xxvi. The Comet Newspaper, July 8, 2004, p.32.
xxvii. P. Robson, Economic Integration in Africa Comma Evanston, Illinios, North Western University Press, 1963, p.33

xxviii. The Comet Newspaper, op. cit., p.32
xxix. The Latin American Common Market (U.N. Sales No. 59, 11, G. 4, NV, 1959)
xxx. Jacob Buba, Comptroller – General of Nigeria Customs, The Nation Newspaper, Nov. 6, 2007, p.34.
xxxi. I. N. A. Kroafah, Ghanaian Businessman, During an Economic Business Forum in Accra, Ghana, Oct 2007, Ibid.
xxxii. The Nation Newspaper, op. cit., p.34
xxxiii. "The Status of Regional Integration: The common Market and Investment Climate," The Nation Newspaper, Ibid p.33.
xxxiv. Ralph Onwuka, Development and Integration in West Africa: ECOWAS, Ife: University of Ife Press, 1982, p.192
xxxv. R. D. Asante, Harmonisation of Monetary and Fiscal Policies of member states, African Economic Community treaty: Issues, problems and prospects, edited by M. A. Ajomo and O, Adewale, a publication of the Nigerian Institute of Advanced Legal Studies, Lagos, 1993, p.137.
xxxvi. Ibid
xxxvii. M. T. Ladan, Introduction to ECOWAS Community Law and Practice: Integration, Migration, Human Rights Access to Justice, peace and security Zaria: Ahmadu Bellow University Press Limited 2009, p.11
xxxviii. Ibid
xxxix. Article 3.
xl. Created by a Treaty Signed by the Heads of State of Benin, Burkina – Faso, Cote d'voire, Mali, Niger, Senegal, and Togo, on May, 1997, Guinea Bissau, (a former Portuguese colony) became the 8th non-francophone member.
xli. ECOWAS Fact Sheet from the U.S Bureau of African affairs.
xlii. Article 3(10).
xliii. M. A. Ajomo, op. cit., p.138
xliv. G. O. Obiozor, op. cit., p.37
xlv. Ibid
xlvi. Ibid. p.54
xlvii. O. J. Nnanna, Seminar on ECOWAS Common External Tariff, Dec. 2005, The Comet Newspaper, Jan 4 2006, p.33.
xlviii. M. A. Ojomo, op. cit., p.142
xlix. MCIA Report, op. cit., p.30
l. Article 51 (1) and (1) (g)
li. Article 52 (2)
lii. Article 53 (1) (ii) and (iii)
liii. Article 55 (ii) (Emphasis Supplied)
liv. Article (ii) (iii)
lv. Paul Masson, Catherine Pattollo, Monetary Union in West Africa (ECOWAS). Is it desirable and how can it be achieved? www.inf.org(external/pubs/feb.14.2001.p.204) (Last visited, 10 – 5 – 10)
lvi. O. Nnanna, op. cit., p.2.
lvii. See EBID's website, www.bibe-ebdi.org. (Last visited, 10 – 5 – 10)
lviii. www.enlightpeople.com.26-2-03, (Last visited, 10 – 5 – 10)
lix. ECOWAS at 25, op. cit., p.29
lx. 2006, ECOWAS Report, p.152.
lxi. ECOWAS: 25 Years of service A Publication of the ECOWAS secretariat, 2000, pp.30 - 32
lxii. ECOWAS at 24, op. cit., p.31, 31
lxiii. Ibid
lxiv. Ibid
lxv. Ibid p.31
lxvi. Ibid. p.2.
lxvii. The Challenges of Cooperation and Integration in Africa, op. cit., p.31
lxviii. Former President of Nigeria, 1999-2007, the Guardian Newspaper, 9 – 3 – 02, p.1
lxix. New Nigerian editorial, 1 – 00. P.8
lxx. Bumbola Ogunkelu, the then Minister for Integration and Cooperation in Africa, at a Business Lucheon Organized by the Lagos Chamber of Commerce and Industry, Nov. 2001, (See the Comet Newspaper, Nov. 21, 2001, p.1
lxxi. Ibid
lxxii. The Footprints of Nigeria's Integration Programmes in Africa's Development, the Challenges of Cooperation and Integration in Africa, (MCIA Publication), op. cit., p.10.
lxxiii. G. O. Obiozor, op. cit., p.42.
lxxiv. The Guardian Newspaper, Jan. 5, 2004 p.14
lxxv. The Comet Newspaper, 30 – 5 – 01 p.40
lxxvi. Ibid
lxxvii. www.nigerbestforum.com, op. cit., p.1, (last visited, 10 – 5 – 10)
lxxviii. Ibid
lxxix. EBID's website

lxxx. The countries involved agreed to set up WAMZ by 2003. The agreement was signed by Gambia, Guinea, Nigeria and Sierra Leone.

lxxxi. African Business Magazine, I.C. Publishers, London

lxxxii. The ECOWAS market represents 234 million consumers and is a gateway to larger markets. Under the Cotonu Agreement, business can access the 456 million strong European market. By 2002 32% of ECOWAS exports (mostly, but regrettably, raw materials) went to the European Union (E.U) countries and 99.8% of these products enter the E.U without customs duties. Trade between ECOWAS and the U.S is facilitated by the African Growth and Opportunity Act (AGOA) which allows goods from ECOWAS States to enter the U.S duty free. In 2003, over 95% of U.S imports form AGOA – eligible countries entered the U.S duty free. U.S Imports form AGOA were over 14 billion dollars, a 53% increase from 2002

lxxxiii. Peter A. Adebayo, Chairman, National Sensitization Committee on the second WAMZ on a visit to Daily Times Newspaper Office, Lagos. (See Daily Times, 8 – 5 – 02, p.2)

lxxxiv. M. A Ajomo, op. cit., p.157

lxxxv. Ibid

lxxxvi. Ibid

lxxxvii. Ibid, p.58