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Ecowas: a promise of hope or success for sub-regional economic integration in west Africa

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ECOWAS: A PROMISE OF HOPE OR SUCCESS FOR SUB-REGIONAL ECONOMIC INTEGRATION IN WEST AFRICA

1. INTRODUCTION

The launch of the Economic Community of West African States (ECOWAS) represented one of the most significant of numerous examples of regional integration among developing countries, it was the culmination of a long and complex history of West African economic co-operation dating back to the colonial era and continuing today in a broad range of institutional manifestations. The size, diversity, and economic and political importance of the countries comprising this grouping mean that the ultimate success or failure of ECOWAS will have major repercussions on the African Continent and beyond.¹

2. HISTORICAL BACKGROUND OF ECOWAS

ECOWAS is one of the six main sub-regional economic communities in Africa in addition to Common Market for East and Southern Africa (COMESA), the Economic Community of Central African States (ECCAS), the Intergovernmental Authority on Development (IGAD), the Arab Maghreb Union (AMU) and the Southern African Development Community (SADC). The idea to create a regional economic organisation for the West African sub-region dates back to 1964. It was the brainchild of President William Tubman of Liberia. He conveyed a meeting of four West African countries; Cote d'Ivoire, Guinea, Liberia and Sierra Leone, to explore the feasibility of setting up a Free Trade Area. Almost a year later, in February 1965, diplomats from the four states met again in Freetown, Sierra Leone, to draw up a document that would have led to the formation of what they called an Organisation for West African Co-operation. However, these early initiatives did not materialise due to a lack of sincerity on the part of the West African leaders, and their strong adherence to their newly won political sovereignty (Amadu, Omotosho, 2011: p. 11).

Seven years later, in April 1972, a more frantic effort was made to actualise the idea mooted by President Williams, this time by General Gowon of Nigeria and General Eyadema of Togo, who travelled to twelve countries within West Africa and held viable consultations with their fellow leaders to bring to existence a regional economic com-

¹ Andrew A.W., "The Economic Community of West African States (ECOWAS) in Comparative Perspective: The Lessons of Asian, Caribbean, and Latin American Integration", available online at <http://oai.dtic.mil/oai/oai?verb=getRecord&metadataPrefix=html&identifier=ADA089017>, accessed 10 august, 2013.

munity. As a follow up, a meeting was then convened in Lomé, Togo from 10–15 December 1973, which studied a draft treaty. This treaty was re-examined at a meeting of experts and jurists in Accra in January 1974 and by a ministerial meeting in Monrovia in January 1975. Finally, fifteen West African countries signed the treaty for an Economic Community of West African States in Lagos, Nigeria on 28 May 1975.² The protocols launching ECOWAS were signed in Lomé, on 5 November 1976.³ In July 1993, a revised ECOWAS Treaty was signed designed to accelerate economic integration and to increase political co-operation. ECOWAS was originally a union of sixteen West African states forming a single community. However, only fifteen nations now form this community as the Islamic Republic of Mauritania withdrew on 26 December, 1999 (Niger, 1999: p. 4).⁴ It is a tri-lingual union of eight French, five English and two Portuguese speaking nations. The French speaking countries are: Benin, Burkina Faso, Cote D'Ivoire, Guinea, Mali, Niger, Senegal and Togo. The English speaking nations include: The Gambia, Ghana, Liberia, Nigeria and Sierra Leone while the Portuguese speaking nations include: Cape Verde and Guinea Bissau – Francophone, Anglophone, and Lusophone nations respectively (Ibegbulam, 2011: p. 31).⁵

3. AIMS AND OBJECTIVE OF ESTABLISHING ECOWAS

According Article 3 of the provision of the ECOWAS treaty, the aims of the Community are to promote co-operation and integration, leading to the establishment of an economic union in West Africa in order to raise the living standards of its peoples, and to maintain and enhance economic stability, foster relations among member states and contribute to the progress and development of the African Continent. The Community will, by stages, ensure⁶(i) the harmonisation and co-ordination of national policies and the promotion of integration programmes, projects and activities, particularly in food, agriculture and natural resources, industry, transport and communications, energy, trade, money and finance, taxation, economic reform policies, human resources, education, information, culture, science, technology, services, health, tourism and legal matters; (ii) the harmonisation and co-ordination of policies for the protection of the environment; (iii) the promotion of the establishment of joint production enterprises; (iv) the establishment of a common market through: the liberalisation of trade by the abolition, of customs duties on imports and exports among member states, and the abolition of non-tariff barriers among member states in order to establish a free

² The Economic Community of West African States (ECOWAS) was established via a treaty on 28th May, 1975, in Lagos, Nigeria.

³ 15 West African Countries signed the treaty for an Economic Community of West African States (Treaty of Lagos) on 28th May, 1975, 1010 U.N.T.S. 17, 14 I.L.M. 1200. The Protocols launching ECOWAS were signed in Lome, Togo on 5th November, 1976.

⁴ Available online at <http://www.africa-union.org/root/au/recs/ECOWASProfile.pdf>, accessed 9 August, 2013

⁵ See also Population Source – The Economic Newspaper Ltd. 2000 or <http://www.is.co.za/af/regorg/unity> or www.ecowas.int accessed on 9 August, 2013.

⁶ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou, 24th July, 1993, Article 3. Available online at <http://www.comm.ecowas.int/sec/index.php?id=treaty>, accessed 10 August, 2013.

trade area at the Community level; (v) the adoption of a common external tariff and, a common trade policy towards third countries; (vi) the removal, between member states, of obstacles to the free movement of persons, goods, service and capital, and to the right of residence and establishment; (vii) the establishment of an economic union through the adoption of common policies in the economic, financial social and cultural sectors, and the creation of a monetary union, (viii) the promotion of joint ventures by private sectors enterprises and other economic operators, in particular through the adoption of a regional agreement on cross-border investments; (ix) the adoption of measures for the integration of the private sectors, particularly the creation of an enabling environment to promote small and medium-sized enterprises; (x) the establishment of an enabling legal environment; (xi) the harmonisation of national investment codes leading to the adoption of a single Community investment code; (xii) the harmonisation of standards and measures; (xiii) the promotion of the balanced development of the region, paying attention to the special problems of each member state particularly those of landlocked and small island member states; (xiv) the encouragement and strengthening of relations and the promotion of the flow of information particularly among rural populations, women and youth organisations as well as socio-professional organisations such as associations of the media, business men and women, workers, and trade unions; (xv) the adoption of a Community population policy that takes into account the need for a balance between demographic factors and socio-economic development; (xvi) the establishment of a fund for co-operation, compensation and development; and (xvii) any other activity that member states may decide to undertake jointly with a view to attaining Community objectives.⁷

The revised treaty of 1993, was intended to extend economic and political co-operation among member states. Economically, it aimed to achieve a common market and a single currency as economic objectives, while in the political sphere it provides for a West African parliament, an economic and social council and an ECOWAS Court of Justice to replace the existing Tribunal and to enforce Community decisions. The treaty also formally assigned the Community with responsibility of preventing and settling regional conflicts.⁸

4. ECOWAS POLICIES ON PROMOTION OF REGIONAL INTEGRATION PROGRAMMES

(A) MEANING OF REGIONAL INTEGRATION

The process of regional integration involves joining together different economies into large economic areas for the purpose of free trade while at the same time removing all discriminatory barriers between them. This in turn creates a need for some degree of cooperation and coordination of policies between them (Anadi, 2005: p. 25).⁹

⁷ *Ibid.*

⁸ Profile: Economic Community of West African States (ECOWAS).

⁹ Available online at www.kfpe.ch/download/PhD_thesis_Anadi.pdf, accessed 10 August, 2013.

Regional integration does not have a single, universally acceptable definition. This is not unexpected because as an academic discipline, it is located within the social sciences genre. Available definitions are varied, ranging from the shortest and selective to the longest and all inclusive. For Onwuka and Sesay, regional integration refers to the various forms and contexts of economic integration arrangements including common markets, free trade areas and harmonisation policies prevailing or proposed at both the continental e.g. African Economic Community, AEC, and regional, e.g. ECOWAS, SADC, levels. According to S.K.B. Asante "...regional integration and regional cooperation have in common the involvement of neighbouring countries in collaborative ventures..." (Asante, 2002: p. 4). For Phillippe De Lombaerde and Luk Van Langenhove, regional integration is a process of "...large scale territorial differentiation characterised by the progressive lowering of internal boundaries and possible rising of new external boundaries..." in which states move from a condition of total or partial isolation towards complete or partial unification, among things (Amadu, Omotosho, 2011: p. 11–12). To Jacqueline Mambara "...regional integration connotes the formation of closer economic linkages among countries that are geographically close to each-other, mainly through Preferential Trade Agreements, PTAs..." (Mambara, 2007: p. 5).

The EU defines regional integration as "... the process of overcoming, by common accord, political, physical, economic and social barriers that divide countries from their neighbours, and of collaborating in the management of shared resources and common national goals". While the United Nations University identifies several types of regional integration arrangements that include: free trade area, customs union, common market, political and security integration. Irrespective of the way the processes are defined, regional integration projects are essentially aimed at addressing, directly and indirectly, the perceived or real national interests of members individually and collectively. A successful regional integration project must be premised on three broad pillars: firstly, domestic peace and security in the integrating states because apart from the destruction of infrastructure such as road networks, telecommunications and other important facilities, conflict diverts attention from regional integration projects as was the case with Liberia, Sierra Leone and Cote d'Ivoire while their civil wars lasted; secondly, enhancing political and civic commitment and deepening mutual trust among members; and thirdly, there must be a minimum threshold of macroeconomic stability and good financial management in member countries.¹⁰

(B) EXTENT OF HARMONISATION AND INTEGRATION PROGRAMMES OF ECOWAS

The need for greater integration among the states of West Africa arose mainly from the perceived economic potentials of a sub-region bedevilled by the problems of insecurity and underdevelopment. Many notable regions, the world over, have applied such an integration approach to achieve development and security, thus, contributing to global peace. A typical example of a successful regional bloc is the European Union

¹⁰ Lolette Kritzing-van Niekerk, "Regional Integration: Concepts, Advantages, Disadvantages and Lessons of Experience" Accessed online at http://www.sarpn.org.za/documents/d0001249/P1416-RI-concepts_ay2005.pdf, on 20 July, 2013: p. 6–7.

(EU). In West Africa, the integration process has tentatively been broadening to cover political, economic, social, cultural, security and other issues.¹¹

The ECOWAS Vision 2020, which sets out the strategic objectives of: a borderless region, sustainable development, peace and good governance, and integration into the global market, coupled with a commitment to an ECOWAS of people rather than that of states, was adopted in June 2008. The scope of the strategic framework cascades from the level of strategic pillars, to the goals and down to the strategies and objectives levels. The strategic pillars take inspiration from the fundamental principles of ECOWAS as a region. According to the ECOWAS Treaty, member states, in pursuance of its objectives in Article 3, solemnly affirm and declare to adhere to eleven principles, grouped to incorporate; sovereignty, co-operation and independence, peace and security, dialogue, human rights and social justice, equity, and good governance.¹² The founding fathers of ECOWAS were quite aware of the huge challenges that confronted them at independence, following years of unbridled exploitation and utter neglect of the basic needs of the citizens by the colonial masters; Britain, France and Portugal. Consequently, successful nation building remained the greatest challenge for them, because their economies are small, weak and highly competitive. Accordingly, they are unable to exploit the complementarities of big and strong economies, and are equally incapable of competing effectively within the global economy. These realities made regional integration an attractive option for West Africa. Undeniably, globalisation processes also forcefully brought home to the region the reality that it is impossible for any country, even the most economically and politically powerful, to go it alone. Now, more than ever before, all countries need each another to survive in a world where states are intricately weaved together economically, politically and technologically, with significant externalities for those that are unable to catch the globalisation train.

(C) HARMONISATION AND CO-ORDINATION OF POLICIES FOR THE PROTECTION OF THE ENVIRONMENT

Under the revised treaty member States of ECOWAS decided to protect, preserve and enhance the natural environment of the region and co-operate in the event of natural disasters; they will adopt policies, strategies and programmes at national and regional levels and establish appropriate institutions to protect, preserve and enhance the environment, control erosion, deforestation, desertification, locusts and other pests.¹³

The Vision 2025 of the ECOWAS Heads of State of the sub-region wants “to turn West Africa into a borderless zone where the citizens will benefit from the opportunities and develop, in a sustainable manner, the huge resources of the region.” This West African zone is seen as “a regional space that enables the people to make transactions

¹¹ Hakeem Olayiwola Sarki, “The Economic Community of West African States (ECOWAS): Challenge Sustainable Peace in the Sub Region – The Journey So Far”, Thesis Submitted to the United Nations Peace Operations Training Institute, for the Award of Certificate of Training in Peace Support Operations (COTIPSO), at: p. 21–22. Available online at <http://www.comm.ecowas.int/sec/index.php?id=treaty>, accessed 10 August, 2013.

¹² “Regional Questionnaire on Aid for Trade”, Available online at www.oecd.org/dac/aft/questionnaire, accessed 10 August, 2013.

¹³ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou, 24th July, 1993, Article 29 (1) and (2).

and to live in peace and dignity within the context of the rule of the law and good governance". Within the general context of this vision, the environmental policy proposes the vision of a peaceful, dignified and prosperous ECOWAS region, where various productive natural resources are preserved and managed on a sustainable basis for the development and equilibrium of the sub-region. Therefore, production, processing, consumption, trading and disposal activities are controlled and managed in a healthy environment, from the point of view of raw material flows, wastes and final processes.¹⁴

As part of its objectives, ECOWAS offers "to promote co-operation and integration with a view to creating a West African Economic Union in order to raise the standard of living of its people, maintain and increase economic stability, strengthen relationships among member States and contribute to the progress and development of the continent."¹⁵ Among the intermediary objectives essential for achieving those objectives, the ECOWAS treaty recognises the need for "the harmonisation and coordination of national policies, and promotion of programmes, projects and activities in the area of agriculture and natural resources. "It gives more recognition to the harmonisation and coordination of policies on environmental protection." This is the basis and justification of the duty for which the ECOWAS Highest Authorities promulgated the Environmental policy for the Community.¹⁶ The environment and natural resources are characterised by a general trend of degradation and resource depletion. These challenges highlight the major sectors and problems relating, among other things, to: land degradation; deforestation,¹⁷ the degradation of landscapes and the loss of bio-diversity through the combined effects of natural factors such as drought and floods as well as human factors such as the abusive exploitation of trees and forests;¹⁸ rapid change in the status and quality of water resources;¹⁹ degradation of the entire landscape through a lack of appropriate development, and weakness in environmental restoration. Though efforts are being made and capacities are being built, they are insufficient and it is essential and urgent that policies and initiatives for restoration be carried out without delay. This is what the ECOWAS environmental policy aims to achieve.²⁰

The environmental systems of Member States, largely support the livelihood of rural people that account for approximately 80% of the population. The living conditions of the rural populace and indeed the general population are seriously hampered by changes in climatic conditions. The environmental policy must therefore address the serious challenges that militate against the achievement of sustainable development. The pol-

¹⁴ ECOWAS: "ECOWAS Environmental Policy", ECOWAS Commission, Abuja, Nigeria, 2008: p. 13. Available online at http://www.comm.ecowas.int/dept/d/d2/en/ecowas_environment_policy.pdf, accessed 10 August, 2013 see the vision for the ECOWAS Environmental Policy.

¹⁵ *Ibid*: pp. 1–3.

¹⁶ Supplementary Act A/SA.4/12/08 Relating to the ECOWAS Environmental Policy, Thirty Fifth Ordinary Session of the Authority of Heads of State And Government Abuja, 19 December 2008, sixty First Ordinary Session of the Council of Ministers held in Ouagadougou from 27 to 29 November 2008. Chapter 2: Scope of Application, Vision, Objectives and Social Initiatives Articles 3, 4, 5 and 6

¹⁷ See ECOWAS Commission Decision C/DEC./3/5/83 related to the reforestation Decade 1983 – 1993.

¹⁸ See ECOWAS Commission Decision A/DEC.1/12/1999, related to the adoption of a sub-regional desertification control in West Africa.

¹⁹ See ECOWAS Commission Decision A/DEC.12/12/2000, related to the adoption of a sub-regional integrated water management action plan.

²⁰ ECOWAS: "ECOWAS Environmental Policy", p. 4.

icy must seek to address these challenges through: (i) good governance and sustainable use of natural resources, national policies and regulations that will address industrial, pollution, urbanisation and waste disposal; (ii) efficient resource management aimed at poverty reduction and general improvements in the livelihood of the people; (iii) advocacy to combat ignorance, the provision of information and communication technology, the adaptation and orientation of institutional bodies in order to effectively organise and optimise synergies and partnerships; (iv) promotion of social equity in national policies of Member States.

Hence the ECOWAS Supplementary Act relating to the Environmental Policy proclaims that: the ECOWAS Environmental Policy concerns all activities relating to the management of natural resources (mines, forests, wild fauna, water resources...), preservation of the eco-system and biological diversity, prevention and management of technological risks, the climate, pollutions and other environmental risks. The ECOWAS Environmental Policy is part of the ECOWAS vision for a “peaceful, dignified and thriving West Africa whose various productive natural resources are sustainably preserved, strengthened and managed for the development and stability of the sub-region”. The ECOWAS Environmental Policy has the objectives of reversing the state of degradation of natural resources and improving the quality of their living conditions and environment, to conserve biological diversity, so as to secure a healthy and productive environment by improving the ecosystem balance and the well being of the populations. The ECOWAS Environmental Policy will in its implementation, take into account the actions and initiatives of various stakeholders (parliamentarians, civil society, and private sector etc.) as well as the sub-regional institutions in charge of environment and sustainable development.²¹

(D) PROMOTION OF THE ESTABLISHMENT OF JOINT PRODUCTION ENTERPRISES

In 2010, ECOWAS adopted its “West African Common Industrial Policy”.²² One of the key objectives is to increase the share of intra-regional trade from currently 12% to 40% in 2030, with a vision to “maintain a solid industrial structure, which is globally competitive, environment- friendly and capable of significantly improving the living

²¹ Articles 3–6 of the Supplementary Act A/SA.4/12/08 Relating to the ECOWAS Environmental Policy, Thirty Fifth Ordinary Session of the Authority of Heads of State and Government Abuja, 19 December, 2008.

²² WACIP’s vision is to “maintain a solid industrial structure, which is globally competitive, environment-friendly and capable of significantly improving the living standards of the people by 2030.” In its bid to achieving this, it has the following specific objectives: Diversifying and broadening the region’s industrial production base by progressively raising the local raw material processing rate from 15–20% to an average of 30% by 2030, through support to the creation of new industrial production capacities and the development and upgrading of the existing ones; Progressively increasing the manufacturing industry’s contribution to the regional GDP, currently at an average of 6–7%, to an average of over 20% in 2030; Progressively increasing intra-Community trade in West Africa from less than 12% to 40% by 2030, with a 50% share of the region’s trade in manufactured goods, particularly in the area of energy (equipment, electricity, petroleum products, etc.); Progressively increasing the volume of exports of goods manufactured in West Africa to the global market, from the current 0.1% to 1% by 2030, through the enhancement and development of skills, industrial competitiveness and quality infrastructure (standardization, accreditation and certification), particularly in the areas of information, communication and transport.

standards of the people by 2030”²³. This is another step in a long history of ambitious attempts towards regional integration in West Africa, which follows a global trend towards a regionalization of trade integration. While this is often attributed to the disappointing progress of multilateral trade negotiations in the World Trade Organisation (WTO), there also appears to be a widespread notion that regional trade is in some way “better” for developing countries than trade with the rest of the world.²⁴

The joint production enterprise²⁵ will create an intra-community and international industrial partnerships that will enable the region to improve investment and technological flow, while strengthening public-private partnership; its industrial fabric, local job creation, intra-Community trade and its presence on the global market through the constitution and strengthening of partnerships between national and foreign enterprises, especially SMEs/SMIs. The joint production enterprise will increase infrastructural development involving collaborations with New Partnership for African Development (NEPAD) with a view to significantly reducing the cost of production factors, promoting the development of intra-community trade and affording the national economies enhanced access to West African, and global markets. The joint enterprise will facilitate industry restructuring and upgrading programmes aimed at restructuring and upgrading enterprises to enable them become competitive, upgrading technical support structures and invigorating industrial activities by strengthening economic information, developing export consortiums/export promotion networks, promoting partnership and mentoring, as well as establishing a system of traceability and support to the informal sector. It will help improve the business environment and facilitate the reinforcement of the co-ordination of technical and financial partners’ interventions in industry.²⁶ Considering the imperatives of globalisation and the important role that industry plays in development, the ECOWAS Member States have reiterated their will to make industrialisation the medium of development and have jointly undertaken to work in partnership with the private sector for the effective and efficient implementation of the West African Common Industrial Policy. This is in view of the desire to have a common regional vision to “collectively becoming an important stakeholder in the globalisation process in the framework of sustainable industrial development” (Gbeho, 2010: p. 4).

(E) THE ESTABLISHMENT OF A COMMON MARKET

Given the fast pace of globalization, the less developed countries of the world (particularly in the sub-Saharan African region) are increasingly becoming marginalized in the world economy. These countries are confronted by serious supply and demand side constraints as well as weak institutional capacities. They are therefore less able to

²³ The policy was set up in the 2010 meeting of the ECOWAS Authority of Heads of State and Government with an implementation vision of 2030.

²⁴ Erik von Uexkull, “Regional Trade and Employment in ECOWAS”, Trade and Employment Programme ILO, 26 August, 2011 at 2 available online at <http://www.oecd.org/site/tadicite/50288711.pdf>, 11 August, 2013.

²⁵ Protocol A/P1/11/84 Relating to Community Enterprises.

²⁶ ECOWAS Aid for Trade: “The West African Common Industrial Policy (WACIP)”, available online at <http://www.aidfortrade.ecowas.int/programmes/the-west-african-common-industrial-policy-wacip> access on 11 August, 2013.

reap potential benefits of trade, investment and technological transformation from globalisation. It is therefore argued that for developing poor countries, regional market integration is crucial for meeting the challenges of globalisation. Regional market integration has been seen as a way out of the problem of the small size of most ECOWAS countries and economies. It is hoped that by integration, economies of scale can be achieved and that industrialisation will follow.²⁷

ECOWAS, has undoubtedly, followed the European Union's model methodically moving from an economic to a political union as it tagged on supplemental treaties to the Union's original protocol. The 1960 Rome Treaty provided for establishing a common market, a customs union and common policies for the EU countries. The ECOWAS original treaty set up eight technical committees of which trade, customs, taxation, statistics, money and payments was one. This committee seemed well-suited for its primary task of promoting trade among ECOWAS member countries (Bamfo, 2013: p. 16).

Regional Integration is the gradual elimination or abolition of economic barriers that impede the free movement of goods, services, capital and persons among a group of nation states like ECOWAS. These fundamental objectives are 'perfectly beautiful', in the way they are conceived, because, the end result of these conceptions, when fully achieved, will bring not only socio-economic development, but also translate the entire west African community into a 'near perfect' community; where lives and properties will not only be safe and secured, but have a guarantee of achieving the full potential of life in a safe environment, where poverty will no longer have a place to hibernate and a community where it tend to develop its own technological needs from within.²⁸ Building on the commitment to have a common market, better policies and regulations for investment, ECOWAS Member States decided to use the impetus of preparations towards the Economic Partnership Agreements (EPAs) to harmonise their regulations on investment and work towards the establishment of a common regional investment rule and code, to establish the common investment market. The Road Map to EPAs negotiations between West Africa and the European Union (EU) was adopted on 4 August, 2004 in Accra, Ghana.²⁹ From February to May 2008, the EU, through BizClim, finalised a study on ECOWAS's Common Investment Code (CIC) and Investment Policy Framework to assist the region in fast-tracking the implementation of its Common Investment Market. At the same time during their 60th Session on 17–18 June 2008, the Council of Ministers adopted the two documents signalling the commencement of the process towards the harmonization of community investment rule into a code.³⁰

The overall objective of establishing the ECOWAS common investment market is to enable the region to attract greater and sustainable levels of investment through creating

²⁷ Okoh R.N "Market Integration And Expansion of Intra-Regional Export Trade: The Case of Nigerian Cocoa in ECOWAS", available online at <http://www.unionbankng.com/uddrose.pdf>, accessed 10 August, 2013.

²⁸ Sambo, "ECOWAS: The Challenges of Regional Integration" Available online at <http://www.gamji.com/article8000/NEWS8443.htm>, accessed 9 August, 2013.

²⁹ Lambert N'galadjo Bamba, "ECOWAS Common Investment Market Initiative", Available online at http://www.privatesector.ecowas.int/en/III/Key_Note_Address_of_Commissioner.pdf, accessed 9 August, 2013.

³⁰ Director: Private Sector Department ECOWAS Commission, "Basis for ECOWAS Common Investment Market" available online at http://www.privatesector.ecowas.int/en/III/Basis_English_for_ECOWAS_Common_Market.pdf, accessed 9 August, 2013.

an international competitive investment area that allows for the free movement of capital, labour, goods and services across borders of Member States. The creation of a common investment market is particularly useful as national markets in most ECOWAS countries are too small to attract investment on their own. Furthermore, multinationals, fund managers and other investors now give preference to regional, rather than national markets in making decisions where to invest. The focus of the ECOWAS common investment market will be to make ECOWAS one of the major destinations for regional and international investors while simultaneously enhancing national investment. Investment is critical not only for sustainable regional integration, but also for the overall socio-economic development of the entire region. Investment, particularly in the productive sectors and export-oriented enterprises, is critical if the region is to benefit from globalisation and strengthen the bonds of integration. The common investment market would therefore act as a catalyst for accelerated investment in the region.

5. ECOWAS COMMON POLICIES IN THE ECONOMIC, FINANCIAL, SOCIAL AND CULTURAL SECTORS

Under the ECOWAS revised treaty in 1993, the following were proclaimed under the Economic, Financial, Social and Cultural Sectors by the member states; ‘in order to promote monetary and financial integration, and facilitate intra-Community trade in goods and services and achieve the Community’s objective of establishing a monetary union, the Member States undertake to: study monetary and financial developments in the region; harmonise their monetary, financial and payments policies; facilitate the liberalisation of intra-regional payments transactions and, as an interim measure, ensure limited convertibility of currencies; promote the role of commercial banks in intra-community trade financing; improve the multilateral system for clearing payment transactions between Member States, and introduce a credit and guarantee fund mechanism; take necessary measures to promote the activities of the West Africa Monetary Agency in order to ensure the convertibility of currencies and the creation of a single currency zone; establish a Community Central Bank and a common currency zone.’³¹ ‘ECOWAS member States undertake to achieve the status of an economic union within a maximum period of fifteen (15) years following the commencement of the regional trade liberalisation scheme, adopted by the Authority through its Decision A/DEC. 119/83 of 20 May, 1983 and launched on 1 January, 1990. Member States shall give priority to the role of the private sector and joint regional multinational enterprises in the regional economic integration process.’³² ‘Under Article 61 of the revised treaty member States undertake to cooperate with a view to mobilising, the various sections of the population and ensuring their effective integration and involvement in the social development of the region.’³³ Member States undertake to pursue the objectives of the Community Cultural Framework Agreement. Member States shall undertake to: encourage the promotion, by every means possible, of all forms of cultural exchange; promote,

³¹ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou, 24 July, 1993, Article 51 (a)-(g).

³² *Ibid*, Article 54 (1) and (2).

³³ *Ibid*, Article 61 (1).

develop and, where necessary approve structures and mechanisms for the production, propagation and utilisation of cultural industries; and promote the learning and dissemination of a West African language as a factor in community integration.³⁴ These issues, among others, will be analysed in the following sub topics.

(A) ECOWAS POLICY ON THE ECONOMIC SECTOR

Though the adoption of three major Supplementary Acts by the ECOWAS Heads of States on 19 December, 2008, the Commission is proceeding with the implementation of the Regional Common investment market.³⁵ The various steps in economic integration are defined in terms of the definitions of integration arrangements that follow in logical progression, from the simplest to the more complex. First, a free-trade area is characterised by intra-regional free trade, but with each member country having separate tariffs on imports from the rest of the world, and trade controlled by a set of rules of origin to prevent trade deflection (duty-free imports from the rest of the world through the member state with the lowest general tariff).³⁶ The second type of economic integration adds a common external tariff to create a customs union. This effectively removes the problem of trade deflection to which a free trade area is usually exposed; the third type of economic integration allows the intra-regional free flow of factors of production and is known as a common market; and finally comes, an economic union, which includes the integration of monetary and fiscal affairs. Against these backgrounds, ECOWAS was established on the 28 May, 1975 to drive the integration, process leading to the establishment of an Economic Union. Its Treaty comprises all the various phases of economic integration as it was mandated to: eliminate tariffs and non-tariff barriers among member states; establish a common external tariff structure and commercial policy towards non-members; eliminate obstacles restricting factor movements; harmonise agricultural policies and promote common projects in member states notably in the field of marketing, research and agro-industrial enterprises; implement schemes for the joint development of transport, communication, energy and other infrastructural facilities, as well as the evolution of a common policy in these fields; harmonise economic and industrial policies; harmonise monetary policies of member states; establish a cooperation fund; and embark on other activities of interest to member nations. From the Treaty provisions, the ambition of the founding fathers of ECOWAS is clear these are: free trade area; customs union; common market; and economic union. Having achieved some success with respect to a customs union; with the putting in place of a common external tariff (CET) in 2008, the Community is on its way to a Common Market by allowing the intra-regional flow of factors of production.

³⁴ *Ibid*, Article 62 (1) (2) and (3).

³⁵ These Acts are; Supplementary Act A/SA.1/12/08 Adopting community competition rules and the modalities for their application within ECOWAS; Supplementary Act A/SA.2/12/08 on the establishment, functions and operation of the regional competition authority for ECOWAS; and Supplementary Act A/SA.3/12/08 adopting community rules on investment and the modalities for their implementation with ECOWAS.

³⁶ ECOWAS: "ECOWAS Common Investment Market Vision", ECOWAS Commission, Abuja, 2009, pp. 6–7, available online at <http://www.ecobiz.ecowas.int/en/pdf/cim-vision-english-version.pdf>, Accessed 12 August, 2013.

In line with Articles 3.2 (f) and 3.2 (i) of the revised ECOWAS Treaty therefore, a key and immediate concern is to develop a regional investment (one of the factors of production) code, compliant with West African macroeconomic convergence criteria that will make the countries in the community improve their macroeconomic stability and will enhance credibility in the regional economic policy. This will not only strengthen the development of the private sector, but also lead to long-term economic growth of the community.³⁷

(B) ECOWAS POLICY ON CULTURE AND EDUCATIONAL DEVELOPMENT

In pursuance of a community cultural framework, ECOWAS Member States agreed to: encourage the promotion, by every means possible, of all forms of cultural exchange; promote, develop and, where necessary approve structures and mechanisms for the production, propagation and utilisation of cultural industries; and promote the learning and dissemination of a West African language as a factor in community integration.³⁸

The ECOWAS Cultural development programme, approved by the Council of Ministers, is designed to strengthen and develop exchange in order to promote creativity, develop cultural tourism, free movement of cultural products, and enable African artists to have greater access to the international art market. It is also designed to ensure that culture is taken into account in the regional integration process for development and to foster a sense of belonging. The objectives are to support and encourage creativity within the ECOWAS space; to promote cultural exchange, to strengthen cooperation with film makers.³⁹In order to reform education in ECOWAS, within the framework of the Decade of Education adopted by the African Union, NEPAD Initiatives, Education for All as well as Millennium Development Goals (MDG), in 2003 ECOWAS adopted a Regional Protocol on Education, and a Convention on the Recognition and the equivalence of Degrees, Diplomas and other qualifications. The protocol sets out priority objectives in education, and the means to achieve them within the framework of Member States co-operation. ECOWAS also adopted an Action plan that was annexed to the protocol on education relating to the priority programmes adopted by the conference of Ministers namely: HIV/AIDS preventive education for girls, teacher training through distance learning, promotion of science and technology, technical and vocational education and training, objectives: to provide all Community citizens with greater access to quality education and training opportunities available in the region; to harmonise criteria for admission into institutions of higher learning, research institutions, and vocational training centres; harmonise certificates; and progressively harmonise the educational and training systems in the Member States.⁴⁰

³⁷ *Ibid.*

³⁸ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou, 24 July, 1993, Article 62.

³⁹ *Directione a Educação, de cultura e ciência da Tecnologia*, See Protocol A/P1/7/87 and A/DEC.4/11/96 ECOWAS Cultural Development Programme.

⁴⁰ Decision A/DEC.3/01/03, Protocol relating to Education and Training; and Decision.4/01/03, General Convention on Equivalence of Certificate.

(C) ECOWAS POLICY ON FINANCIAL SECTOR

The ECOWAS states decided that, in order to promote monetary and financial integration, they have to facilitate intra-community trade in goods and services which lead to the realization of the Community achieving its' objective of establishing a monetary union. The Member States also agreed to: study monetary and financial developments in the region; harmonies their monetary, financial and payments policies; facilitate the liberalisation of intra-regional payment transactions and, as an interim measure, ensure the limited convertibility of currencies; promote the role of commercial banks in intra-community trade financing; improve the multilateral system for clearing payment transactions between Member States, and introduce a credit and guarantee fund mechanism; and take necessary measures to promote the activities of the West Africa Monetary Agency in order to ensure the convertibility of currencies and the creation of a single currency zone; and to establish a Community Central Bank and a common currency zone.⁴¹

The ECOWAS Bank for Investment and Development (EBID),⁴² which took over from the ECOWAS Fund is now set to play a crucial role in the economic integration of West Africa. EBID (ECOWAS Bank for Investment and Development) is a regional financial institution created to facilitate investment and the financing of projects in West Africa. It forms a powerful body that aims to enable and encourage greater financing to the private sector, resulting in wealth creation as well as promoting employment in the sub-region, along with infrastructural development projects integrating the whole region primarily promoting multilateral projects that benefit several countries at once.⁴³ Since 10 October, 2011, the Bank has increase its capital from 600 million to 1 billion UA, about USD 1.5 billion, 70% owned by the fifteen regional Member States of ECOWAS, with the remaining 30%, about USD 450 million are opened to subscription for non-regional partners. EBID's main objective is to contribute towards the economic development of West Africa through financing ECOWAS and NEPAD projects and programmes, notable among which are programmes relating to transport, energy, telecommunications, industry, poverty alleviation, wealth creation and job promotion for the well-being of the people of the region. EBID is based in Lome, the Togolese Republic.⁴⁴

The ECOWAS Bank for Investment and Development (EBID) is the principal financial institution of the Economic Community of West African States (ECOWAS). EBID

⁴¹ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou 1993, Article 51.

⁴² ECOWAS Bank for Investment and Development (EBID) is an international finance institution established by the new Article 21 of the ECOWAS Revised Treaty as amended by the Additional Act A/SA.9/01/07 of 19 January 2007. It comprises fifteen Member States, namely Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. It has two windows, one for the promotion of the private sector and the other for the development of the public sector. see <http://cokoye.com/genenal-jobs/ecowas-bank-for-investment-and-development-ebid-lome-togo-recruitment-2012/> accessed 12 August, 2013.

⁴³ "West Africa's Financial Muscle" African Business interviews with Christian Narcisse Adovelande, President of the ECOWAS Bank for Investment and Development (EBID).

⁴⁴ "ECOWAS Bank for Investment and Development EBID Lome Togo" Available online at <http://cokoye.com/genenal-jobs/ecowas-bank-for-investment-and-development-ebid-lome-togo-recruitment-2012/>, accessed 14 August, 2014.

as a holding company, operates through its two subsidiaries, the ECOWAS Regional Development Fund (ERDF), and the ECOWAS Regional Investment Bank (ERIB). ERDF focuses primarily on the public sector while ERIB deals with the private and commercial sectors. EBID is also the financing bank of the New Economic Partnership for African Development (NEPAD) projects in the region. EBID plays a similar role to that played by the European Investment Bank within the European Union. ECOWAS was created in 1975 to provide member states with collective bargaining clout, to stimulate trade and investment within the community and to harmonise some infrastructure projects, such as roads and railways.⁴⁵ It had become clear to West African leaders that there was strength in numbers, especially as the West African economic zone contained several small economies that were unlikely to make headway individually. One of the aims of the ECOWAS treaty is to gradually integrate the economies of the sub-region to forge a large and vibrant trading bloc. It was also an attempt to collectively attack poverty while simultaneously developing regulatory and infrastructural links. One of the significant features of ECOWAS is that the grouping contains a very wide diversity of economies in terms of size, development and resources. It is also a region that has experienced, and continues to experience, violent conflicts in some member states, although these have reduced considerably over the last decade. To its great credit, ECOWAS has not deviated from its set objective in the face of these challenges. It has been very active in conflict resolution and prevention through a combination of intense discussions at the highest political levels and direct intervention. EBID, as part of its brief to foster greater integration among member states, created, in conjunction with the African Development Bank, a Conflict Prevention Fund in 2004. The Fund is managed by EBID. At its inception in 1975, ECOWAS set up a Fund for Co-operation, Compensation and Development, commonly known as the ECOWAS Fund. The ECOWAS Fund was directed mainly at the public sector and was used to finance projects that contributed to the greater integration of the region, for example, by providing access to ports for landlocked countries. In the 1990s, as globalisation spread, changing the traditional patterns of international trade, economic blocs acquired a new significance. For example, investment risks, especially those posed by smaller economies, can be minimised through a regional approach and economies that would have floundered on their own in an increasingly competitive world can be given a new lease of life by being allied to stronger regional economies. Furthermore, environmental issues can only be realistically dealt with on a regional basis rather than by individual states. The nature of internal economies also changed considerably with the shift away from state-owned and operated organisations to privatisation. Privatisation often presents considerable technical problems and requires carefully modulated financing by highly skilled and specialised experts.⁴⁶

With this in mind, the ECOWAS Conference of Heads of State and Government which met in Lomé in 1999, decided to transform the ECOWAS Fund into the holding company EBID with its two subsidiaries, ERIB and ERDF, to deal with the new realities. With this change, EBID added a private sector focus responding to the multiple privatisations in the region and supporting the private sector as the engine of sustain-

⁴⁵ ECOWAS Bank for Investment and Development (EBID) "The Bank for West Africa's Development" Available online at http://www.africasia.com/uploads/ab_pg3843_01005_1.pdf, access 12 August, 2013.

⁴⁶ *Ibid.*

able growth. At the same meeting, West African leaders resolved to work towards creating a single entity out of ECOWAS and the *Union Economique et Monétaire Ouest Africaine* (UEMOA). UEMOA is a grouping of eight francophone countries using a single currency, the CFA. All eight members of UEMOA are also members of ECOWAS. The goal is to marry the CFA with the proposed single currency for The Gambia, Ghana, Guinea, Nigeria and Sierra Leone (the Eco) to set up a single monetary zone in the future. 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. Through financing cross-border investments and projects, EBID is assisting West Africa to achieve this goal of greater co-operation, development and prosperity.

(D) PROMOTION OF JOINT VENTURES BY PRIVATE SECTORS ENTERPRISES

One of the aims and objectives of ECOWAS under Article 3 of the revised treaty is the promotion of joint venture enterprise by the private sector. The promotion of joint ventures by private sectors enterprises and other economic operators, in particular through the adoption of a regional agreement on cross-border investments,⁴⁷ as well as the harmonisation of national investment codes leading to the adoption of a Single Community Investment Code.⁴⁸

The Secretariat of the Economic Community of West African States (ECOWAS) was transformed into a Commission by the Authority with effect from 1 January 2007, in order to promote efficiency in service delivery. Under the new structure, the position of Commissioner for Macro Economic Policies was created, along with several new departments that the Commissioner is to oversee including the Private Sector Department. The new Private Sector Department inherited the assets and liabilities of the investment and private sector division under the defunct Economic Policy Department. It is responsible for achieving ECOWAS's aims and objectives relating to the promotion of cross-border investments, joint venture businesses and small and medium enterprises in order to contribute to the achievement of a competitive, dynamic and diversified regional economy that is preferred by investors. To this end, the mandate of the Department includes the following:⁴⁹ improve the investment climate in the region to expedite the growth of domestic investment and attract foreign investment in order to achieve the structural transformation of the regional economy and foster the overall socio-economic development of the Member States; enhance the competitiveness of the regional private sector through promoting good corporate governance, supporting the provision of business development services, establishing guarantee institutions and promoting the development indigenous entrepreneurship and micro/small/me-

⁴⁷ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou 1993, Article 54(2) provides that member States shall give priority to the role of the private sector and joint regional multinational enterprises in the regional economic integration process.

⁴⁸ "Consultant Warns against Trade Barrier in ECOWAS States", *The Tide*, 12 June, 2013. Available online, <http://www.thetidenewsonline.com/2013/06/12/consultant-warns-against-trade-barrier-in-ecowas-states/> accessed 13 August, 2013.

⁴⁹ ECOWAS Private Sector, available online at <http://www.privatesector.ecowas.int/stand.php?id=presentation&lang=en&chem=/> accessed 12 August, 2013.

dium enterprises (MSMEs) to foster pro-poor economic growth and sustainable development in the region; facilitate the involvement of the private sector in the regional integration process through support to regional private sector institutions and the creation of relevant new ones; promote harmony and synergy among these activities of the institutions and facilitate consultations amongst the organized private sector in the region, and with the organised private sector in other regions of the world to enhance the exchange of information; promote the development of a viable regional capital market with strong linkages in all member states to facilitate the mobilization of investment capital and wealth creation; Facilitate the establishment of multi-national joint ventures and Community enterprises in the region to promote employment and sustainable inclusive growth. Facilitate public private partnerships to promote regional investment; and encourage West African entrepreneurs to develop and maintain links with diaspora groups, relevant continental and international bodies, south-south bodies, etc to attract investment and its associated benefits to the regional private sector.

6. SUPPOSED ECOWAS ACHIEVEMENTS ON ECONOMIC AND PHYSICAL INTEGRATION

(A) MARKET INTEGRATION: FREE MOVEMENT OF PEOPLE/ LABOUR

Free movement of person will involve the abolition of visa right of residence and establishment removal of roadblocks and security checkpoints, introduction of ECOWAS passport, harmonization of customs documents, regulation and formalities.⁵⁰

The ECOWAS treaty on the free movement of people is considered to be a key component towards the economic growth of the Community enhancing the flexibility and availability of labour in the sub-region while enlarging opportunities for workers. In their first protocol from 1979, ECOWAS Member States called upon one another to allow fellow citizens to work freely anywhere within the region.⁵¹ As a result, citizens of the Community no longer require entry visas to travel into the territory of other member States and in 2000 the ECOWAS passport was introduced,⁵² which is ultimately designed to replace national passports, to further facilitate the mobility of people throughout West Africa. In addition, under the Community's Revised Treaty, citizens

⁵⁰ "ECOWAS Affairs History and Background", available online at <http://www.ghana.gov.gh/ecowas/ecowas.php>, accessed 12 August, 2013.

⁵¹ 1979 ECOWAS Protocol A/P.1/5/79 relating to Free Movement of Persons, Residence and Establishment.

⁵² ECOWAS 2000a. "Executive Secretary's Report, 2000", Abuja: ECOWAS Secretariat. Available online at <http://www.sec.ecowas.int/sitecedao/english/es-rep2000-3-2.htm>, accessed 13 August, 2013. In 2000 at its meeting in Abuja, the Authority of Heads of State and Government adopted a uniform ECOWAS passport, modelled on the EU passport and with the ECOWAS emblem on the front cover. A five year transitional period was foreseen during which national passports would be used in conjunction with ECOWAS passports while ECOWAS passports were phased in and became more widely available. See Aderanti Adepoju, Alistair Boulton and Mariah Levin, "Promoting Integration through Mobility: Free Movement under ECOWAS" Available online at <http://nants.org/wp-content/uploads/2013/05/A-Practical-Review-of-the-ECOWAS-Protocol-on-Free-Movement-ENGLISH.pdf>, accessed 13 August, 2013.

are guaranteed the right of residence and establishment throughout the sub-region,⁵³ which includes the right to apply for and take up employment in any Member State.⁵⁴

It is worth noting that the 1979 Free Movement Protocol⁵⁵ has undergone some legal transformations which have given rise to the following: 1985 Supplementary Protocol on the Code of Conduct for the Implementation of the Protocol on Free Movement of Persons,⁵⁶ the Right of Residence and Establishment; 1986 Supplementary Protocol⁵⁷ on the second phase (Right of Residence); 1989 Supplementary Protocol⁵⁸ amending and complementing the provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment; and the 1990 Supplementary Protocol⁵⁹ on the implementation of the third phase (Right to Establishment).⁶⁰ The underlying reason for the protocol was that the integration of the member states into a viable Regional Economic Community may demand the partial and gradual pooling of national sovereignties to the Community within the context of a collective political will. It was believed that the existing bilateral and multilateral forms of economic co-operation within the region open up perspectives for more extensive cooperation. It was also based on the view that the sub-region needed to face together the political, economic and socio-cultural challenges of sustainable improvement in the welfare of their populations; and pooling together of their resources, particularly people will ensure the swiftest and optimum expansion of the sub-region's productive capacity. These constitute the main rationale for re-creating the free movement of people in the sub-region.

The Free Movement Protocol is essentially a contraption aimed at achieving the economic integration agenda of the region, as set out in Article 3 of the ECOWAS treaty. The recognition of the need for economic integration including the free flow of persons, goods and services resulted in the enactment of the ECOWAS Protocol on the free movement of people, and the right of residence and establishment in 1979. Article 27 of the ECOWAS treaty affirmed the need for economic integration, which includes free flow of people, goods and services by calling on the member states to ensure the gradual removal of all obstacles to free movement of people, services and capital. ECOWAS member states were required to stop demanding visa and residence permits, and therefore allow citizens of other member states to work and undertake commercial and industrial activities within their territories.

⁵³ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou 1993, Article 59 (1).

⁵⁴ René Robert "The Social Dimension of Regional Integration in ECOWAS", Policy Integration Department International Labour Office Geneva, Working Paper No. 49 of December 2004, p. 28, available online at http://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/publication/wcms_079141.pdf, accessed 10 August, 2013.

⁵⁵ ECOWAS Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment, Done at Dakar, on 29th May, 1979.

⁵⁶ ECOWAS Supplementary Protocol A/SP.1/7/85.

⁵⁷ ECOWAS Supplementary Protocol A/SP.1/7/86.

⁵⁸ ECOWAS Supplementary Protocol A/SP.1/6/89.

⁵⁹ ECOWAS Supplementary Protocol A/SP.2/5/90.

⁶⁰ ECOWAS Vanguard, "A Practical review of the ECOWAS Protocol on Free Movement", Volume2 Issue, 6 of April, 2013. Available online at <http://nants.org/wp-content/uploads/2013/05/A-Practical-Review-of-the-ECOWAS-Protocol-on-Free-Movement-ENGLISH.pdf>, accessed 14 August, 2013.

(B) THE RIGHT OF ENTRY AND THE ABOLITION OF A VISA WITHIN ECOWAS SUB-REGION

The first phase of the Protocol essentially sought to guarantee free entry of Community citizens into all member states without undue restrictions. With the Free Movement of Protocol coming into force upon its ratification by the member states in 1980, visa and other entry requirements for citizens travelling to a sister country were effectively abolished.⁶¹ Article 3 of the Protocol provides that any Community citizen has the right to enter into the territory of another member on the possession of a valid travel document and an international health certificate. A valid travel document is either a national passport or an ECOWAS travel certificate. A citizen visiting any member state for a period not exceeding 90 can enter the territory of that member state through the official entry point free of visa requirements. This means that a citizen of an ECOWAS member state who possesses valid travelling documents and international health certificate can spend up to 90 days in another state. However, where a stay exceeding 90 days is desired, the citizen would have to obtain permission for an extension of stay from the appropriate authority. However the Protocol however did preserve the right of a member state to deny entry to any immigrant considered to be inadmissible by its laws.⁶²

(C) THE RIGHT OF RESIDENCE WITHIN THE ECOWAS SUB-REGION

The second phase of the protocol, -right of residence-became effective in July 1986 upon the ratification of a Supplementary Protocol by the member states. The Supplementary Protocol defines the “Right of Residence” as the “right of a citizen who is a national of one Member State to reside in a Member State other than his State of origin, and which issues him with a residence card or permit that may or may not allow him to hold employment”. Article 3 of the Supplementary Protocol delimits the right of residence to include the right to: apply for jobs effectively offered; travel for this purpose, freely in the territory of member states; reside in any member state in order to take up employment in accordance with national employment laws; live in the territory of a member state in accordance with conditions defined by national laws of the host member states, after having held employment there; to contemplate employment in the civil service of member states. Notwithstanding this, the Protocol subjects this right to the right of a member state to impose restrictions justifiable by reasons of public order, public security and public health.

⁶¹ ECOWAS Protocol A/P.1/5/79 Relating to the Free Movement of Persons, Residence and Establishment, Done at Dakar, on 29th May, 1979. This protocol entered into force provisionally upon signature by the Heads of State and Government of Member States, and definitively upon ratification by at least seven signatory States in accordance with the constitutional procedures applicable for each signatory State.

⁶² *Ibid.* Article 4.

(D) THE RIGHT OF ESTABLISHMENT WITHIN THE ECOWAS SUB-REGION

A Supplementary Protocol on the implementation of the third phase right (right of establishment) was ratified by member states in 1990.⁶³ “Right of Establishment” means the right granted to a citizen who is a national of a member State to settle or establish in a member state other than his state of origin, and to have access to economic activities, to carry out these activities as well as to set up and manage enterprises, and in particular companies, under the same conditions as defined by the legislation of the host member state for its own nationals. Here again, it is important to note that this right is subject to relevant legislations (like the labour laws, company laws, tax laws etc.) of member states and any such citizen must exercise this right within that limit. However, there is an overwhelming burden on the member state to ensure that such legislation is not discriminatory. It should be emphasised that Article 2 of the Protocol expressly includes within the definition of “right of establishment” access to non-salaried activities and the exercise of such activities as well as the creation and management of enterprises and companies.⁶⁴

There is a conviction that the promotion of harmonious economic development of the Member States required effective economic co-operation and integration largely through a determined and concerted policy of self-reliance. The recognition of the need for economic integration including free flow of people, goods and services stimulated the enactment of the Protocol on free movement of persons, and the right of residence and establishment in 1979. The first phase of the Protocol guaranteed free entry to citizens from member states without a visa for ninety days and it was ratified by all member states in 1980. The second phase of the protocol, right of residence became effective in July 1986 and all member states and ratified it.⁶⁵ However, the right of establishment is yet to come into force. With the coming into force of this protocol, the member states will abolish visa and other entry requirements for citizens travelling to a sister country. This means that a citizen of an ECOWAS member state who possesses a valid traveling documents and an international health certificate can spend up to 90 days in another state. Notwithstanding the protocol, a member state has the right to deny entry to any immigrant considered to be inadmissible by its laws. In 1986, the second phase of the protocol (right of residence) was ratified by all member states.⁶⁶ The reason is that the ECOWAS treaty affirmed the need for economic integration, which includes free flow of persons, goods and services by calling on the Member States to ensure graduation removal of all obstacles to free movement of peoples, services and capital. ECOWAS member states were required to stop demanding visa and residence permits, and therefore allow West Africans to work and undertake commercial and in-

⁶³ 1986 Supplementary Protocol A/SP.1/7/86 on the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment.

⁶⁴ *Ibid*, Article 2

⁶⁵ *Ibid*, Article 23

⁶⁶ Clotey, “Operationalizing ECOWAS Protocol on Free Movement of People among the Member States: Issues of Convergence, Divergence and Prospects for Sub-Regional Integration”: p. 10–11, available online at <http://www.imi.ox.ac.uk/pdfs/research-projects-pdfs/african-migrations-workshops-pdfs/ghana-workshop-2007/CLOTTEY%20and%20AGYEI.pdf>, accessed 13 August, 2013

dustrial activities within their borders.⁶⁷ The re-creation of a borderless West Africa was in consonance with the African Charter on Human and People's Rights and UN human rights (Clottey, p. 10–11).

(E) MARKET INTEGRATION INVOLVING ECONOMIC AND MONETARY CO-OPERATION

Under the integration involving economic and monetary cooperation, the ECOWAS Member States agreed to undertake to complete the establishment of an economic monetary union within five years following the creation of a Custom Union. This was to be done through: the adoption of a common policy in all fields of socioeconomic activity particularly agriculture, industry, transport, communications, energy and scientific research; the total elimination of all obstacles to the free movement of people, goods, capital and services and the right of entry, residence and establishment; the harmonisation of monetary, financial and fiscal policies, the setting up of a West African monetary union, the establishment of a single regional Central Bank and the creation of a single West African currency.⁶⁸

Under the ECOWAS monetary integration, the monetary policy involves the creation of an economic and monetary union, a second Regional Currency is planned to take effect in January 2015, while the ECOWAS-wide Common Currency will come into operation by 2020 (Magbagbeola, 2009: p. 14) ECOWAS was established with the objective of liberalising trade among member states: the elimination of tariff and non-tariff barriers, and ultimately achieving an economic and monetary union after successfully going through the process of a free trade area, custom union and common market. The idea of having all 15 countries in West Africa spend, save, invest and trade in a single common currency is as old as ECOWAS itself. After several failed attempts and postponements in starting dates, ECOWAS has now given member states up to 2015 to put into effect a plan for a second monetary union and a single common currency in 2015 which will run alongside the existing common currency, the CFA franc, used by the French-speaking member states of the regional body. The ultimate goal is to eventually combine the two monetary unions and create a single common currency for the entire sub-region.⁶⁹ One of the major advantages in having a single currency is that, "It creates a situation where the countries become disciplined. This is because if a country is not managing her economy properly, there is moral suasion from the others to ensure that she performs..." "and that can assist countries in the sub-region to develop quickly and be able to compete with the rest of the world." The Speaker of the ECOWAS Parliament, Senator Ike Ekweremadu, the Deputy Senate President of Nigeria, who is one

⁶⁷ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou 1993, Article 27 (1) and (2).

⁶⁸ *Ibid*, Article 55., Member States undertake to achieve the status of an economic union within a maximum period of fifteen (15) years following the commencement of the regional trade liberalization scheme, adopted by the Authority through its Decision A/DEC. 119/ 83 of 20 May, 1983 and launched on 1 January, 1990. See Article 54 of the Revised Treaty. 2. Member States shall give priority to the role of the private sector and joint regional multinational enterprises in the regional economic integration process.

⁶⁹ Ghana Business and Finance, "The ECO: A Common Currency Phantasm or Certainty?", Ghana Business Media, 2011, available online at <http://www.ghanabizmedia.com/ghanabizmedia/january-2011-ecowas/191-the-eco-a-common-currency-phantasm-or-certainty.html>, accessed 12 August, 2013.

of the arrowheads of the common currency agenda, stated that the single currency objective would become effective by 2020, but by 2015 in English-speaking countries.⁷⁰

(F) ECOWAS TRADE LIBERALISATION SCHEME

Article 35 of the revised ECOWAS treaty deals with trade liberalisation within the sub-region and it is the policy to progressively establish in the course of a period of 10 years effective from 1 January 1990, as stipulated in Article 54, a Customs Union among the Member States whereby customs duties or other charges with equivalent effect on Community -originating imports will be eliminated.⁷¹ Quotas, quantitative or similar restrictions or prohibitions and administrative obstacles to trade among the Member States will also be removed. Furthermore, a common external tariff in respect of all goods imported into the Member States from third countries will be established and maintained.⁷²

The ECOWAS Trade Liberalisation Scheme (ETLS) is ECOWAS's main operational tool for promoting the West Africa region as a Free Trade Area. This lies in tandem with one of the objectives of the community which is the establishment of a common market through "the liberalisation of trade by the abolition, among Member States, of customs duties levied on imports and exports, and the abolition among Member States, of non-tariff barriers...."⁷³ The purpose of the liberalisation scheme are to encourage entrepreneurial development in the region, increasing intra-regional trade and boosting economic activity, increasing West African competitiveness on the global market and increasing the GDP of Member States, thus ensuring better welfare for citizens. The scheme has undergone a series of transformations in respect of the categories of goods that are covered.⁷⁴ The first category was defined when the scheme first came into existence in 1979. At that time, agreement was reached on only agricultural, artisanal handicrafts and unprocessed products to benefit from the scheme. Following this, in 1990, further agreement was reached and industrial products could be approved to take part in the scheme. With industrial products being accepted, it became imperative to define what products were "originating" from the ETLS region.

⁷⁰ Ezeemo, "ECOWAS Currency: A Worthwhile And Timely Venture?", *Nigerian Orient News*, 6 March, 2013 Available online at <http://www.nigerianorientnews.com/?p=2985> accessed 13 August, 2013. Senator Ekweremadu made it known at a dinner organized for members of the Administration, Finance and Budget Committee of the organisation after their one week meeting and workshop recently in Enugu. He said ECOWAS had transformed from being a committee of states to becoming a committee of the people. It could be recalled that the West African Monetary Zone (WAMZ) was formed in 2000 as a group of six countries within ECOWAS that plan to introduce a common currency, the Eco, by 2015. All the members of the group are English-speaking countries, apart from Guinea, which is Francophone. Since 1987 the body has continued deliberations on how to implement the policy. Members strongly believe that a common currency for the West African Monetary Zone (WAMZ) would facilitate trade in the region, as well as fast-track development in the African sub-region.

⁷¹ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou 1993, Article 35 (1).

⁷² *Ibid.*

⁷³ *Ibid.*, Article 3.

⁷⁴ See ECOWAS Trade Liberalisation Scheme (ETLS) Available online at <http://www.etls.ecowas.int/etls/about-etls/> accessed 13 August, 2013.

ECOWAS Member States articulated a comprehensive trade liberalisation programme, the ECOWAS Trade Liberalisation Scheme (ETLS) quite early in its existence. Implementation was supposed to have started in 1979, but it had to be postponed three times before it was finally launched in 1990. The implementation of the programme is designed to occur in the following stages: an immediate and full liberalisation of trade in unprocessed goods and traditional handicrafts; phased liberalisation of trade in industrial products, with the phasing reflecting the differences in the levels of development of three⁷⁵ categories of ECOWAS member states; the gradual establishment of a Common External Tariff (CET). Thus, the trade liberalisation scheme of ECOWAS was conceived as a progressive reduction culminating in the elimination of all tariff and non-tariff barriers against intra-ECOWAS trade.⁷⁶ The annual tariff reduction rates varied among the three categories of countries: for the most advanced of the countries the schedule was expected to be in six years; the completion period was set at eight years for the middle group of countries; and the third group was given up to 10 years.⁷⁷

In line with its objective of promoting co-operation and integration and as one step towards the creation of a common market that, according to the ECOWAS Revised Treaty, should be established, through “the liberalisation of trade by the abolition, among member states, of customs duties levied on imports and exports, and the abolition among member states, of non-tariff barriers in order to establish a free trade area at the Community Level”. “ECOWAS adopted the ECOWAS Trade Liberalisation Scheme”. This was first implemented in 1979 with only agricultural products, handicrafts and crude products being allowed to benefit from the scheme. In 1990, however, it opened up to include industrial products.⁷⁸ Given the evolution of international trade and the adoption by the World Trade Organization (which most ECOWAS Member States are members of) of a new agreement on rules of origin, it was deemed necessary to comply with these rules. As a result, ECOWAS and UEMOA adopted the same origin criteria.⁷⁹

(G) ECOWAS CUSTOMS UNION (5-BAND COMMON EXTERNAL TARIFF)

Under the 1993 revised ECOWAS treaty, Member States agreed in Article 37 that there would be a gradual establishment of a common external tariff in respect of all goods

⁷⁵ Decision of the ECOWAS Authority of Heads of States and Governments, Decision A/DEC.1/5/83 classes member states into three groups for the implementation of the ETLS: Group 1-Cape Verde Guinea Bissau, The Gambia, Upper Volta, Mali and Niger, Group 2; Benin, Guinea, Liberia, Sierra Leone and Togo, Group 3-Ivory Coast, Ghana, Nigeria and Senegal. Available online at www.comm.ecowas.int/sec/index.php, accessed 13 August 2013.

⁷⁶ These are barriers to trade that restrict imports but are not in the usual form of a tariff. Examples include anti-dumping measures and countervailing duties.

⁷⁷ ECOWAS Vanguard, “The ECOWAS Trade Liberalisation Scheme: Genesis, Conditions and Appraisal”, Volume 2 Issue 3, Jan. 2013. Available online at <http://nants.org/wp-content/uploads/2013/03/The-ECOWAS-Trade-Liberalization-Scheme-Genesis-Conditions-and-Appraisal-ECO-VANGUARD-Jan-2013-English-> accessed 13 August 2013.

⁷⁸ ECOWAS Aid for Trade: “ECOWAS Trade Liberalisation Scheme (ETLS)”, available online at <http://www.aidfortrade.ecowas.int/programmes/ecowas-trade-liberalization-scheme-etls>, accessed 13 August 2013.

⁷⁹ *Ibid.*, The ECOWAS protocol A/P1/1/03 of 31st January 2003 defines the concept of originating products and origin criteria applicable for the free circulation of industrial goods.

imported into the Member States from third countries in accordance with a schedule to be recommended by the trade, customs, taxation, statistics, money and payments commission. Member States would schedule to be recommended by the trade, customs, taxation, statistics, money and payments commission, the abolition of existing differences in their external Customs tariffs. Member States undertook to apply the common Customs nomenclature and Customs statistical nomenclature adopted by Council.⁸⁰ The treaty further provided that goods would be accepted as eligible for Community tariff treatment if they had been consigned to the territory of the importing Member States from the territory of another Member State and originated from the Community.⁸¹

The ECOWAS Common External Tariff (CET) is a basic feature of the integration of the Union. By that, all the countries in the ECOWAS region will adopt a common customs union and abandon the individual tariff structure with which they trade with other countries, adopting instead a common external tariff in trade with third countries. The same customs duties, import quotas, preferences or other non-tariff barriers to trade apply to all goods entering the ECOWAS region, regardless of which country in the region they are entering. It is designed to end re-exportation, but it may also inhibit imports from countries outside the customs union and thereby reducing consumer choice and supporting the protectionism of industries based within the customs union. In addition to having the same customs duties, the ECOWAS countries may have other common trade policies, such as having the same quotas, preferences or other non-tariff trade regulations apply to all goods entering the region, regardless of which country within the area they are entering.⁸² Article 3 of the Revised ECOWAS Treaty, indicates that one of the main objectives for the creation of the Community is the establishment of a common market through trade liberalisation and the adoption of a Common External Tariff.⁸³

At the 29th Summit of the ECOWAS Heads of State and Government held on 12 January, 2006 in Niamey, two important decisions were taken regarding the implementation of the ECOWAS CET.⁸⁴ The first decision was in respect of the implementation of the ECOWAS CET with effect from 1 January 2006. The decision provided for the

⁸⁰ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou 1993, Article 37.

⁸¹ *Ibid*, Article 38 (1).

⁸² ECOWAS Vanguard, "Enhancing Intra-Regional Trade in West Africa", Volume 2 Issue 6. NANTS/152 Available online at <http://nants.org/wp-content/uploads/2013/02/ECOWAS-Common-External-Tariff-and-Regional-Integration-English.pdf>, accessed 14 August, 2013. See also ECOWAS Vanguard, "The ECOWAS Common External Tariff (CET) and Regional Integration", Volume 2 Issue 2 Dec. 2012, available online at http://www.inter-reseaux.org/IMG/pdf/The_ECOWAS_CET_and_Regional_Integration_ECO_VANGUARD_Dec_2012_English_Edition_.pdf, accessed 13 August, 2013.

⁸³ The Authority of Heads of State and Government, at its 29th session, adopted the ECOWAS CET for ECOWAS Member States vide Decision A/DEC.17/01/06. The legal mandate for the CET derives from the following: Article 3 of the ECOWAS Revised Treaty which states clearly that one of the main objectives for the creation of the Community is the establishment of a Common Market through trade liberalization and the adoption of a Common External Tariff (CET). The decision A/DEC.17/01/06 of the 29th Session of the Authority of Heads of State and Government which adopted the ECOWAS CET for ECOWAS Member States and the ECOWAS Regulation C/REG.1/5/09 which provides that ECOWAS CET is supposed to be based on a Harmonised System (2007).

⁸⁴ Twenty Ninth Summit of the Authority of Heads of State and Government Niamey, 12 January 2006. Decision A/DEC.24/01/06 Adopting An ECOWAS/UEMOA Regional Policy On Access to Energy Ser-

adoption of a four-band tariff structure made up of basic social goods attracting an import duty of 0%; basic essential goods, raw materials, capital goods and specific inputs attracting an import duty of 5%; intermediate goods with an import duty of 10%; and finished goods with an import duty of 20%. The decision also provides for a number of taxes as part of the CET, including the community levy, the statistical tax and certain accompanying measures. It was decided that the period 1 January, 2006 to 31 December, 2007 would serve as a transitional period for the implementation of the ECOWAS CET, leading to its coming into full effect from 1 January, 2008.⁸⁵ At the Joint West African Economic and Monetary Union (WAEMU)/ECOWAS Committee negotiating the CET which was held in November, 2008 at Abuja, the committee recommended a rate of 35% for the fifth band and that safeguard measures be explored. It also requested member States to put forward their proposed lists of products to be classified under this fifth band; these lists would be on the negotiation agenda for the February 2009 session.⁸⁶ In the end the five-band tariff regime, which was a subject of ten years of internal negotiations driven by the technical committee of the Commissions of the ECOWAS and the eight member West African Economic and Monetary Union (UEMOA), was endorsed by the ministers at their meeting in Praia, Cape Verde, on 20 March, 2013. The new Common External Tariff was modelled on the UEMOA tariff regime following the 2006 decision of Heads of State and Government of the region. Some 5,899 tariff lines are covered under the new tariff regime, with tariff ranging between zero and 35 per cent for the 130 tariff lines that fall into the category of specific goods contrib-

vices for Populations in Rural and Peri-Urban Areas for Poverty Reduction in Line with Achieving the MDGs in Member States.

⁸⁵ *Ibid.* Essentially, the UEMOA CET features four tariff categories with rates at 0% for essential social goods, 5% for essential/basic raw materials, capital goods and specific inputs, 10% for intermediary products, and a peak tariff rate of 20% for final consumer goods. The unweighted average Tariff Rate (ATR) is 12.1%. Apart from the above highlighted rates, the January 2006 decision of ECOWAS Heads of State provided for specific protection instruments additional to the customs duties, such as the regressive protection tax, the special import tax and safeguard measures to make up for the inadequate taxation of some products. The decision further made provision for a two-year transition period (1st January 2006 to 31st December 2007) to enable non-UEMOA countries to adapt to the new tariff policy (Type A exceptions) and to pursue the negotiations with a view to reaching agreement on the re-classification of some products as requested by the non-UEMOA countries (Type B exceptions). Entry into force was targeted at 1st January 2008. By giving effect to the ECOWAS Authority, the Federal Government of Nigeria (FGN) had as far back as February 2004 announced her intention to comply with an ECOWAS CET but made provision for a 30% special tax to offer temporary protection to selected products of domestic industry. The special tax as announced was to be phased out in 3 or 4 years. In addition, the Government of Nigeria prohibited imports of some products. But more importantly, it would further be recalled that Nigeria demanded for the creation of a fifth tariff band of 50% as an addition to the existing UEMOA rate. This request was made when Nigeria which made a political commitment to align with the UEMOA CET realized that such commitment was made without due recourse to technical analysis in terms of research, or prior consultations with stakeholders including relevant sectors of the economy such as the manufacturers, farmers, traders and other private sector organizations. See Ken Ukaoha, "ECOWAS CET: The Imperatives of Nigeria's Fifth Band", available online http://www.acp-eu-trade.org/library/files/Ukaoha_EN_060308_NANTS_ECOWAS-CET-The-imperatives-of-Nigeria-s-fifth-band.pdf, accessed 13 August, 2013.

⁸⁶ Réseau Des Organisations Paysannes Et Des Producteurs Agricoles De L'Afrique De L'ouest (ROPPA), "Memorandum From Farmers' Organisations On The ECOWAS Common External Tariff Negotiations" Ouagadougou, 9th February 2009. Available online http://www.roppa.info/IMG/pdf/English_memerandum_TEC_fev_09_1_1_.pdf, accessed 13 August, 2013.

uting to the promotion of the regions economic development. Under the new regime, the five per cent duty is applicable for 2,146 tariff lines under the basic raw materials and capital goods category, 10 per cent for the 1,373 tariff lines that qualify as intermediate products category while 20 per cent duty is reserved for the 2,165 tariff lines that fall into the category of final consumer products.⁸⁷

(H) ECOWAS ENERGY POLICY: WEST AFRICAN GAS PIPELINE AND POWER POOL

Under Article 28 ECOWAS Member States agreed to co-ordinate and harmonise their policies and programmes in the field of energy to ensure the effective development of the energy resources of the region; and establish appropriate co-operation mechanisms with a view to ensuring a regular supply of hydrocarbons; promote the development of new and renewable energy particularly solar energy in the framework of the policy of diversification of sources of energy; harmonies their national energy development plans by ensuring particularly the inter- connection of electricity distribution networks; articulate a common energy policy, particularly, in the field of research, exploitation, production and distribution; establish an adequate mechanism for the collective solution of energy development problems within the Community, particularly those relating to energy transmission, the shortage of skilled technicians and financial resources for the implementation of energy projects of Member States.⁸⁸

The ECOWAS regional energy programme is part of the integration and economic development policy of the community. The main objective of the programme is to strengthen regional integration and to boost growth through market development in order to fight poverty. The community energy programme has developed regional co-ordinated actions at all stages of the energy chain. These actions focus on developing the use of regional resources for the expansion of electricity production and exchange and on developing cross-border interconnections within the context of a regional integrated energy market. Their overall aim is to boost and optimise the availability and the end use of energy, by ensuring increased access to energy services to rural and peri-urban communities.⁸⁹

The ECOWAS Energy Policy has two major ongoing energy projects namely the West African Power Pool (WAPP),⁹⁰ which aspires to inter-connect the power grids of all the Member States, and the West African Gas Pipeline Project (WAGPP) which aims to link three nations (Benin, Ghana and Togo) to Nigeria's natural gas supply.

WAGPP benefits from the 18 billion m³ of natural gas that Nigeria currently burns off with flare towers. It stands as a complement to the WAPP regional strategy for the

⁸⁷ "ECOWAS Ministers Endorse New Regional Tariff Regime, Panapress", 22 March, 2013. Available online <http://www.panapress.com/ECOWAS-ministers-endorse-new-regional-tariff-regime--12-866372-100-lang2-index.html>, accessed 13 August, 2013.

⁸⁸ Revised Treaty of the Economic Community of West African States (ECOWAS), Annex VII-2 Cotonou 1993, Article 28.

⁸⁹ ECOWAS: Regional Initiatives to Scale up Energy Access for Economic and Human Development Sharing Lessons Learned: the Case of the ECOWAS at 4. Available online at http://www.gfse.at/fileadmin/files/Archive/GFSE_6/CEDEAO_Briefing_paper_for_GFSE_final.pdf accessed 14 August, 2013.

⁹⁰ The WAPP was created in 1999 by ECOWAS Member States (A/DEC.5/12/99) and granted the status of ECOWAS Specialised Institution in 2006 (A/DEC.20/01/06).

development of WAPP hydro-electricity. The 687 km pipeline, with an estimated cost of US\$ 617 million and will supply thermal power stations in Benin, Ghana and Togo, and yield a capacity of 3 000 MW in 20 years' time. It will be built, run and owned by the West African Gas Pipeline Company (WAPCo), a public-private partnership comprising the following shareholders: Chevron Texaco West African Gas Pipeline Limited (38.2%), Nigerian National Petroleum Corporation (26%), Shell Overseas Holding Limited (18.8%) and Takoradi Power Company (17%). There are also plans for SOBEGAZ (Benin) and SOTOGAZ (Togo) to take up shares in the consortium.⁹¹

In accordance with the May 1992 decision on the Community energy policy, which seeks to harmonise the Member States' energy policies and increase collective energy autonomy, in December 1999 ECOWAS adopted, the principle of setting up a West African Power Pool system (WAPP). This led to the formulation of a master plan for the development of energy production means and inter-connecting electricity grids with a view to boosting Member States' inter-connection capacity and quadrupling it between 2005 and 2020. WAPP's objective is to interconnect national grids across 5,600 km in most West African countries (Nigeria, Benin, Togo, Ghana, Cote d'Ivoire, Niger, Burkina Faso and Mali). Total investment in all infrastructures will amount to 11.8 billion US dollars over 19 years. The resulting facility will equip the ECOWAS region with an installed capacity of some 17 000 MW, which can adequately satisfy estimated demand until 2023.⁹²

WAPP's aims are to integrate the national power systems in order to create a unified regional electricity market; provide adequate, reliable and affordable electricity; share hydro and gas resources; and quadruple inter-connection capacities between member states within 20 years. It was a projected investment that will cost US \$9 billion by 2011. The West African Gas Pipeline Project is aimed at transporting Nigerian Natural Gas to Benin, Togo and Ghana. The investors include: Chevron-Texaco, NNPC, Shell, VRA, Sobegaz & Sotogaz and it's a project requiring a 600 km pipeline estimated at the cost of US\$ 610 million (Magbagbeola, 2009: p. 17–18).

Additionally, the West African Solar Energy Project is renowned for undertaking numerous renewable energy projects in approximately all the States in the Sahel region (Magbagbeola, 2009: p. 17–18). At an operational level, the WAPP and WAGP both concentrate on trades in power or natural gas, but other regional projects are also underway including the Regional Solar Programme (RSP), the Regional Programme for the Promotion of Household and Alternative Energies in the Sahel, the Multi-Functional Platforms Project and the Regional Biomass Energy Programme.⁹³ The construction of gas-fuelled thermal plants in Ghana and Côte d'Ivoire; and the renovation of plants in Nigeria (together providing about 9,000MW) will assist in the energy needs in the sub region (Mohamed, 2007: p. 9). With the Adoption of the ECOWAS Energy Protocol in 2003, there is a call to eliminate cross-border barriers to trade in energy. It encourages

⁹¹ ECOWAS: "White Paper for a Regional Policy, Abuja", 19 October 2005, p. 36. Available online at www.energy4mdg.org, accessed 14 August, 2013.

⁹² *Ibid.*

⁹³ ECOWAS and WAEMU, Geared Toward Increasing Access to Energy Services for Rural and Periurban Populations in Order to Achieve the Millennium Development Goals, White Paper for Energy Policy, January 2005: p. 19.

investment by providing for investor-friendly terms such as: international arbitration for dispute resolution; and repatriation of profits....⁹⁴

(I) ECOWAS ROAD TRANSPORT INTEGRATION POLICY

Articles 32 and 33 of the ECOWAS revised treaty provides that ECOWAS will develop common transport and telecommunications policies, laws and regulations; develop an extensive network of all weather highways within the community; formulate programmes for the improvement and integration of railway networks; formulate programmes for the improvement of coastal shipping services and interstate inland waterways, and for the harmonisation of maritime transport policies and services; promote the development of regional air transport services and implement air transport safety and security programmes; encourage the establishment and promotion of joint ventures and the participation of the private sector in the areas of transport and telecommunications.⁹⁵

The ECOWAS road transport priority programme was adopted in 1980.⁹⁶ This programme was aimed at ensuring the construction and maintenance of the Trans-Sahelian, Dakar-N'djamena road network and the trans-coastal, Lagos-Nouakchott road network with a length of about 11000 km (Magbagbeola, 2009). The programme was also aimed at the harmonization of transport legislation in Member States. The second phase of the ECOWAS road programme was approved in 1988 mainly to inter-connect roads to open up land-locked countries. For the implementation of the two phases of these road programmes, the Community (Executive Secretariat, ECOWAS Fund, Member States) organised a number of donor conference. The first conference was held in April 1988 in Lomé, Togo; the second in July 1992 in Dakar, Senegal. The Dakar meeting was followed by another meeting held in Cotonou, Benin in March 1993. The outcome of the efforts made by the Community in the implementation of the programme is as follows: out of 4560 km of the trans-coastal roads 3800 km have been tarred (83%) out of 4460 km of the trans-sahalian road, 3824 km have been tarred (88%) and out of 11466 km of interconnecting roads, 7803 km have been tarred (70 %)⁹⁷.

Regional transport policy first emerges in the ECOWAS Treaty of 1975, where the following declaration is made: "Member States undertake to evolve gradually common transport and communications policies through the improvement and expansion of their existing transport and communications links and the establishment of new ones as a means of furthering the physical cohesion of the member states and the promotion

⁹⁴ ECOWAS: Regional Initiatives to Scale up Energy Access for Economic and Human Development Sharing Lessons Learned: the Case of the ECOWAS p. 4. Available online at http://www.gfse.at/fileadmin/files/Archive/GFSE_6/CEDEAO_Briefing_paper_for_GFSE_final.pdf, accessed 14 August, 2013.

⁹⁵ Article 32 and 33 of the Revised ECOWAS Treaty of 1993.

⁹⁶ Convention A/P.4/5/82 Relating to Inter-States Road Transit of Goods relating to the principles of the Convention of the United Nations Conference on Trade and Development on transit of goods within landlocked countries adopted on 8th July, 1965. Supplementary Convention A/SP.1/5/90 Establishing A Community Guarantee Mechanism For Inter-State Road Transit Of Goods by the Government of Member States of the Economic Community of West African States.

⁹⁷ ECOWAS: "1st Meeting of Transport, Communications and Tourism Commission", ECW/TCTC/XXXX/3, Cotonou, 26–28 July 2001, available online at http://www.ecowas.int/ips/ii/transport/doc/1st_TCT_COMM_COT.pdf, accessed 14 August, 2013.

of greater movements of person, goods and services within the Community”.⁹⁸ Road transport is the dominant mode of transport in the ECOWAS sub-region accounting for between 80 to 90 per cent of the sub-region’s passenger and freight transport and provides the only form of access to over 70 per cent of the population residing in rural communities. The road network is among the sub-region’s largest assets, with a replacement cost estimated at approximately US\$45 billion. Central government’s budgetary expenditures to the road sub-sector are typically between 5 and 10 per cent of the recurrent budget and 10 to 20 per cent of the development budget. A large portion of the central government’s disbursed and outstanding debts is attributable to road loans. It is estimated that overall expenditures account for over one per cent of the regional GNP. The road construction industry is therefore one of the largest businesses in the sub-region.⁹⁹ ECOWAS have also developed an action plan on the construction of the 1,028 km Lagos-Abidjan Highway. Nigeria and the other four countries concerned – Benin, Togo, Ghana and Cote d’Ivoire adopted a plan at a meeting in Abuja with the aim of speeding up the building work. The Lagos-Abidjan Highway connects some of the largest and most economically dynamic cities in West Africa, including Lagos, Accra, Cotonou, Lome and Abidjan. The construction will commence sometime in 2014 and will be completed within 24 months.¹⁰⁰

Furthermore the programme also cover a 443 km long Bamenda–Enugu road network which comprises the Cameroonian Bamenda-Mamfe-Ekok road sections on the road network (203 km), the Nigerian road sections (240 km), the bridge over the Munaya River in Cameroon (100 m) and the border bridge over the Cross River (230m). The programme is expected to help increase trade and strengthen co-operation between the countries of the Economic Community of Central African States (ECCAS) and those of the Economic Community of West African States (ECOWAS) in general, and between Cameroon and Nigeria, in particular.¹⁰¹ More specifically, the programme seeks to improve the efficiency of the logistic chain of transport along the Bamenda-Enugu corridor, as well as the living environment of populations of the programme area. The programme will be implemented from July 2008 to December 2013. The total cost of the programme is estimated at UA 276.72 million, including UA 218.96 million in foreign exchange and UA 57.76 million in local currency. The direct beneficiaries of the programme are transport service users, as well as the 11 000 000 inhabitants (3 000 000 in Cameroon and 8 000 000 in Nigeria) in the programme area, represent-

⁹⁸ “ECOWAS: Document on ECOWAS Regional Road Transport Programme” *Development and Maintenance of West Africa Regional Road Network*, Abuja April, 2002, p. 17, available online at http://www.ecowas.int/ips/ii/transport/doc/DONORS_2002.pdf, accessed 14 August, 2013.

⁹⁹ *Ibid*, p. 13.

¹⁰⁰ African Research online, “Major New Road to be built in West Africa :Construction of the Abidjan to Lagos highway-part of the long, long awaited Trans-West African Highway – will begin in 2014”, *Africa Research Bulletin*, 15 May, 2013. Available online at <http://africaresearchonline.wordpress.com/2013/05/15/major-new-road-to-be-built-in-west-africa/>, accessed 14 August, 2013

¹⁰¹ African Development Fund., “Transport Facilitation Programme for the Bamenda-Mamfe-Ekok/Mfum-Abakaliki-Enugu Corridor”, Available online at <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/Multinational%20-%20Cameroon%20-%20Nigeria%20-%20Transport%20facilitation%20programme%20for%20the%20Bamenda-Mamfe-Abakaliki%20-%20Eng.pdf>, accessed 20 August, 2013.

ing 7% of the total population of the two countries. The programme will reduce overall transport costs, and improve the living conditions of populations living along the road.

(J) ECOWAS RAILWAY NETWORKS INTERCONNECTION MASTER PLAN

The ECOWAS road network is said to be in a relatively good condition but suffers enormously from overloads caused by heavy vehicles. With the purpose of relieving the road network and harnessing the region's natural resources, the ECOWAS Commission has undertaken to revitalise and modernise the rail network. In that regard, the construction and renovation of the rail networks have become regional priorities. The Commission therefore initiated in 2008 a study aimed at developing a master plan on the interconnection and modernisation of the region's rail networks.¹⁰² The proposed ECOWAS railway system is expected to commence soon after years of neglect to connect Nigeria to Benin, Togo, Ghana and Côte d' Ivoire with a single railway line, expected to be 1,178 kilometres long, to connect the sub-region and end in Abidjan, Cote d'Ivoire. The project is expected to transform the region's transportation system by launching new high-speed passenger and freight rail services. This will allow large container ships to concentrate on a smaller number of ports, thereby increasing efficiency and reducing the costs of international trade. It is also to facilitate a major industrialisation of West African countries, improve the transportation of agricultural produce, and create immediate economic emancipation for the 300 million or so people within the region.¹⁰³ The expanded highway hopes to provide a vital road link to the sea ports used by landlocked countries in the sub-region such as Mali, Burkina Faso and Niger.¹⁰⁴ The road network is also expected to speed up the movement of citizens along the corridor and enhance the ease of doing business.¹⁰⁵

(K) ECOWAS REGIONAL AIR AND MARITIME POLICY

The ECOWAS Commission has, as one of its goals, the improvement in air and marine transportation in the region through the development of the ECOAIR air transport project and the further development of the ECOMARINE initiative with the cooperation of the private sector and financial institutions. It is projected that the ECOAIR transport initiative will be achieved through an amalgam of the existing West Afri-

¹⁰² ECOWAS Commission, "Recruitment Of A Consultant For The Update of The *ECOWAS Railway Networks Interconnection Master Plan*" available online at services.ecowas.int/wp-content/uploads/.../EOI-ECOWAS-Railway.docx, accessed 15 August, 2013.

¹⁰³ Ghana Web; "ECOWAS Railway Nears Reality", *Business News*, 9 Friday, August 2013, available online at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/artikel.php?ID=282009>, accessed 14 August, 2013.

¹⁰⁴ Article 68, of ECOWAS Revised treaty of 1993 provides that member States, should take into consideration the economic social difficulties that may arise in certain Member States, particularly island and land-locked States, agree to grant them where appropriate, special treatment in respect of the application of certain provisions of this Treaty and to accord them any other assistance they may need.

¹⁰⁵ Ventures, "West African States To Build 6-Lane Highway", Posted on 27 May, 2013, available online at <http://www.ventures-africa.com/2013/05/west-african-states-to-build-6-lane-highway/>, accessed 14 August, 2013.

can airlines to compete internationally.¹⁰⁶ The Commission stated that its operational budget was now sourced wholly from member states which it said was an indication of great political will of the community. It projected that 25 per cent of the funding of its programmes come from external bodies, and three percent from its partners debunking claims that the organisation is being run by donor funds. There is an absence of strong regional air transport hubs in the ECOWAS region. Relative to other regions in Africa, ECOWAS has a large domestic air transport market (almost entirely accounted for by Nigeria), but a relatively small market for intra-African air transport. While the countries in ECOWAS have fair international connectivity, domestic connectivity is very poor. More than half of the countries in ECOWAS have no domestic connectivity at all (Ranganathan, Foster, 2011: p. 34, 36). Before concluding this paper, it will be necessary to set out a small comparison of ECOWAS and the South African Development Community (SADC) as these two appears to be the most effective regional economic organisations in Africa.

7. COMPARISON BETWEEN ECOWAS AND SADC

In terms of corporate identity, it appears that SADC¹⁰⁷ and ECOWAS are similar in their objectives: they both aim to encourage economic growth and development, reduce poverty, and promote peace and security through regional integration. However, their social identities are quite different, in part due to their very different origins. For ECOWAS, the enhanced role of the Commission in regional affairs has resulted in greater preference convergence between ECOWAS member states compared to SADC, where the majority of states have defected from a common position, ECOWAS has remained more united (Hulse, 2014: p. 16).¹⁰⁸

In contrast to SADC's political roots, ECOWAS was founded in 1975 as a purely economic organisation, bringing together the Francophone organisation UEMOA,¹⁰⁹ the five Anglophone and two Lusophone states of the region. ECOWAS expanded its mandate into political and security affairs, and by 1990 had become the first African regional organisation to abandon the norm of non-interference in the domestic affairs of member states. It has since carried out a number of military interventions in order to uphold democratic constitutional norms (Börzel *et al.* (eds), 2012: pp. 179–98). Despite having many unconsolidated democracies by its member states, ECOWAS is committed to the promotion of democratic constitutionalism (Börzel, Hullen, Lohaus, 2013), seeing it as a 'necessary precondition for thirteen successful integration and economic development'.¹¹⁰ ECOWAS expresses 'zero tolerance' for *coup de etat*,

¹⁰⁶ Federal Ministry of Information, "ECOWAS Plans Regional Air, Maritime Projects", available online at <http://fmi.gov.ng/ecowas-plans-regional-air-maritime-projects/>, accessed 14 August, 2013.

¹⁰⁷ Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe.

¹⁰⁸ Available online at http://www.academia.edu/4913369/Actorness_Beyond_the_European_Union_comparing_the_international_trade_actorness_of_SADC_and_ECOWAS, accessed 14 April, 2014.

¹⁰⁹ The existence of the Union Économique et Monétaire Ouest-Africaine, a monetary union since 1945, is related to France's continued influence in its former colonies long after independence, while most Anglophone states opted for a clean break from their former colonizer.

¹¹⁰ ECOWAS Commissioner Victor Gbeho, keynote address, Chatham House, 7 June, 2011.

insurgency and power obtained or maintained through unconstitutional means, and has institutionalised highly legalised pro-intervention norms since 2008 (Striebinger, K. 137: p. 184). This interventionism is consistent with ECOWAS's gradual move towards supranationalism.¹¹¹ As for decision-making in trade matters SADC is an entirely intergovernmental organization; trade affairs are no exception. ECOWAS on the other hand is more inclined towards supranationalism and majority voting in formal decision-making procedures: the Treaty notes that integration 'may demand the partial and gradual pooling of national sovereignties' (Merran Hulse). Above all, SADC has a marginally larger international trade presence than ECOWAS, meaning that both of them are low in terms of international trade net output. Available record has it that the region's exports in 2011 amounted to US\$218 billion, 1.2 percent of the world total. ECOWAS's material presence is also low, with approximately US\$131 billion worth of exports in 2011, or 0.7 percent of the world total.¹¹²

Compared to the Economic Community of West African States (ECOWAS) grouping, SADC as a body has made considerable progress in integrating its economies. The ECOWAS and SADC schemes have been hampered by immense diversities in economic size, historical experiences and cultural backgrounds. In the case of ECOWAS, this is reflected in wide differences between Nigeria (which showed considerable commitment to the scheme) and the smaller partners, especially the francophone countries. Despite its ambitious treaty, ECOWAS remains a largely ineffective and dormant integration scheme. To buttress the above assertion, Ghana's Vice president John Dramani Mahama has urged leaders of the ECOWAS sub-region to demonstrate more commitment towards the integration effort in order to make the region globally competitive, and has said that other sub-regions were making much better progress than West Africa, mentioning the Southern African Development Community (SADC), as one example, along with the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA) which are achieving much faster liberalisation than the ECOWAS region.¹¹³ In terms of peacekeeping and peace enforcement, the two sub-regional organisations in particular, ECOWAS and SADC, have gathered significant experience in military interventions in Liberia, Sierra Leone, Guinea Bissau, Cote d'Ivoire, Lesotho, and the Democratic Republic of Congo as peace is a necessary pre-condition for regional economic integration and development.¹¹⁴

¹¹¹ Zounmenou, Loua, *Confronting Complex Political Crises in West Africa: An Analysis of ECOWAS Responses to Niger and Côte d'Ivoire*, ISS Paper 230 of 2011.

¹¹² See also CIA (2013) *World Factbook: Country Comparison, Exports*, Available online at <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2078rank.html>, accessed 15 April, 2014.

¹¹³ Lawrence Quartey, "ECOWAS Lagging Behind SADC, EAC, COMESA in Integration". *The Africa-report*, 29 February, 2012. Available online at <http://www.theafricareport.com/West-Africa/ecowas-lagging-behind-sadc-eac-comesa-in-integration.html>, accessed 15 April, 2014.

¹¹⁴ Rodrigo Tavares, "The Participation of SADC and ECOWAS in Military Operations: The Weight of National Interests in Decision-Making", *African Studies Review* Volume 54, Number 2, September 2011: p. 145–176.

8. CONCLUSION

Since the establishment of the ECOWAS in May 1975, almost four decades ago, it has fallen far behind in the area of reconciling its aims and objectives as enshrined under Article 3 of the revised treaty with potent achievements. The effort of the organisation in achieving its economic goals of turning the West Africa sub-region into a unified economic community, like the European Union has been far from true reality considering the futuristic nature of the set programmes. There is a trade liberalisation scheme under the auspices of the ECOWAS Trade Liberalization Scheme (ETLS) which was slated to take-off in phases. Efforts to render West Africa totally borderless by graduating the Community from ECOWAS of states to ECOWAS of peoples are projected for 2025. It has been determined that the West African Common Industrial Policy will take effect in 2030. In June 2008, the the ECOWAS Heads of State agreed on the adoption of a Second Regional Currency in January 2015, the ECOWAS-wide Common Currency in 2020, and The overall ECOWAS Vision 2020, which sets the strategic objectives of: a borderless region, sustainable development, peace and good governance, and integration into the global market, coupled with a commitment to an ECOWAS of people rather than that of states. By this, ECOWAS recorded a noticeable milestone in its effort to attain the set goals, the free movement of goods, services and people within the Community, and more by member states. In addition, the West African Gas Plant (WAGP) has been completed, and the states of the region are linked by the West African Highway. The states of the region have also initiated a uniform passport scheme that allows a bearer to stay within the Community for 90 days without a visa. There is an ultimate target to phase out the nine different and inconvertible currencies of the member states with the introduction of a single currency for the Community (Ogbonna, Aluko, Awuah, 2013: p. 105–106). ECOWAS has also performed well in the area of promotion of peace and good governance within the sub-region through the 1999 Protocol on Conflict Prevention and Management, and the 2001 Supplementary Protocol on Democracy and Good Governance. However, compared with other regional economic organisations in Africa, such as SADC, it is obvious that ECOWAS is lagging behind in some aspects of its economic integration project. ECOWAS, as a group, has been faced with a lot of challenges and this has resulted in it not meeting most of its set aims and objectives. These challenges include: poor democratic governance, corruption, poverty, military incursion in politics within the sub-region, the proliferation of small arms, cross border crime, HIV/AIDS epidemic, environmental degradation and terrorism. All these have been hindrances to the effective regional integration in West Africa contrary to the aims and objectives of the founding fathers of the Economic Community of West African States (Sarki: p. 59–69).

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