

The Economic Community of West African States (ECOWAS): the Challenges to the Implementation of the Protocol on the Free Movement of Goods, Persons and Establishment

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Abstract

The Paper examines the challenges facing the non-implementation of the 'ECOWAS' Protocol on the Free Movement of goods, services, persons and capital. In its finding, several problems including the lack of Political commitments, administrative restrictions, civil conflicts, wars and terrorism are major obstacles to the implementation of the Protocol on free movement of goods, services, persons and capital in West Africa. Thus the Paper recommends that ECOWAS' leaders should seriously address those obstacles in the implementation of the Protocol.

Keywords: Liberalization, administrative restrictions, protocol, establishment, development, pirate, security, implementation, abolition, globalization.

1. Introduction

Indeed, the 15 nation ECOWAS came into force on 28th May 1975, when the Treaty was signed in Lagos, Nigeria, by a group of countries comprising Dahomey (now Benin), The Gambia, Ghana, Guinea, Guinea-Bissau, Ivory Coast, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra-Leone, Togo, and Burkina Faso (former Upper Volta). Cape Verde acceded to ECOWAS in 1977. Hence, establishing a market of 280 million consumers and a geographical area of 6.2 million square kilometres. However, the Treaty from inception has been faced with a series of challenges, including security, underdevelopment and the implementation of the Protocol on Free Movement of Goods, Persons and the Right to Establishment in the member States. The ECOWAS Constitution is the Lagos Treaty of May, 1975 and its objectives include: Economic stability among the member States, improve the standard of living of their people, customs union, freedom of movement of persons, capital, services, agriculture, transportation, telecommunication, energy and development, industrial master-plan. Several reasons will push states to create /form economic integration among them. Indeed, reasons like economic weakness, dependence status, economies of scale and scope, political influence, security and stability may lead to it. For instance, in the West African Sub-region the principal reasons that pushed for economic integration include to encourage intra West African trade which was less than 4%, to strengthen their weak economies, improve the living standard of their people and be independent of extra African powers in the realpolitik game as a consequence of the Cold War.¹ Since the Protocol on the Free Movement of Persons, Right of Residence and Establishment was put in place in 1979. The Protocol has failed to actualize its main goals in ECOWAS' member states as consequences of a myriad of challenges including lack of political commitment, cross-border security, wars, political instability and the proliferation of small arms and light weapons and terrorism. Against this backdrop, the paper would examine the obstacles in the implementation of the Protocol on the Free Movement of Goods, Persons, Right of Residence and Establishment.

2. Conceptual Clarification

The needs to contribute to development, economic growth and improve the standard of living, among others, had led to states' coming together and pooling their resources to boost and make their economies competitive in the international political economy. Economic integration has been defined differently by scholars. Jovanovic defines economic integration 'is a process by which the economies of separate states merge in large entities'.² Clark sees economic integration as 'intergovernmental cooperation which would lead to vital policy decision, to encourage exchange of goods, services, labour and capital'.³ While to integrate as the Webster's New Encyclopedic Dictionary (1996) puts it 'to form into a whole: unite (integrate the countries' economies). According to Ravenhill, 'regionalism refers to formal process of intergovernmental collaboration between two or

¹ Esekumemu Clark (1993) Nigerian Foreign Policy and the European Community. Krems: University of Krems, Unpublished MAS Thesis. See also, S.K.B. Asante (1997) Regionalism and Africa's Development: Expectations, Reality and Challenges. London: Longman

² Jovanovic Miroslav (1992). International Economic Integration, London: Routledge.

³ Esekumemu Clark (1996) Political Economy of Integration in Africa: Beyond the Lagos Plan of Action. Wien: University of Vienna, Unpublished D. Phil Thesis.

more states'.⁴ States make important decisions to give up some aspects of their sovereignty which indeed they find difficult to part with because of fear of being dominated by others. Both developed and developing countries shared such characteristics. For instance, the European Union, the famous regional grouping in its formative years and to date, its members are still hesitant to give up crucial aspects of sovereignty to the Union as a consequence of national security interests. As Geoffrey Edwards puts it:

At the national level, they were often able, especially in coalition governments, to insulate themselves from pressure elsewhere in government despite (or sometimes because of) the declining role played by agriculture in the economy. The slow pace of reform throughout the 1970s and 1980s – and into the 1990s – give testament to the continued strength of the agricultural lobby and their ministers – the French hostility to the agreement negotiated by the commission within the framework of the GATT Uruguay Round in 1993 is an obvious example.⁵

In other words, this is why in economic integration the processes of deepening and widening of aspects of sectoral areas of crucial policies such as approximation/harmonization of monetary, fiscal and social policies that give impetus to the subregional economic integration process are moving in a snail pace. The problems as such have delayed the Implementations of the 'ECO' the common currency of ECOWAS and 'ECOWAS Visa'. These should have facilitated businesses, including the exchange of goods, services, capital and persons in the Community. As the Guardian (January 9, 2013:38)⁶ famously puts it:

In West Africa, we have over nine different currencies, if we have to add Mauritania. Out of the 10 currencies, only one is convertible, which is the CFA. CFA has been tied to the French Franc as far back as 1941, and what you see in the Anglophone is a total deviation in the sense that in Nigeria, it is naira, Ghana, cedi. If you register a product here in Nigeria, when you go to Ghana, you still talk about FDB requirements and all that and becomes complex.

One of the critical aspects of economic integration is the liberalization of barriers to trade especially between the integrating countries. This is to encourage trade and remove barriers that would impede growth in trade between member states of an economic grouping. Among these contracting states all tariffs and non-tariff barriers are removed or dismantled to increase intra regional trade and proper allocation of scarce production resources and efficient use. Meanwhile, the integration process may lead to 'trade creation' and 'trade diversion' within or without the Customs Union. As Professor Jacob Viner noted that the creation of a Customs Union may have positive or negative effects for the contracting parties as consequences of 'trade creation' and 'trade diversion' within or without a Customs union.⁷ This may lead to a win-win situation for some while a zero-sum-for others. The weaker states in the associating group may decide to delay implementation of policies such as the Free movement of goods, services, capital and persons because of their interests, This is a case of *realekonomik* at its height. Certainly, the issues of tariffs and non-tariffs barriers are of a serious concern among the comity of nations. Indeed, both developed and developing nations put in place all sorts of tariffs and non-tariffs barriers to shade their economies from others' exports. This is compounding free trade and commerce in the world economy, with negative implications for African trade. The World Trade Organization's (WTO) liberalization of barriers to trade is seriously being challenged by nation-state's beggar-thy-neighbour policies This is one of the problem facing the Doha Round trade negotiations ongoing since 2001 while a breakthrough is yet to be obtained in several areas.⁸ Thus as the former Secretary General of the UN, Kofi Annan, pointed out.

Probably no signal change would make a greater contribution to fulfilling that pledge than fully opening to markets of prosperous countries to the goods produced by poor ones. At present, farmers in poor countries not only have to compete against subsidized food exports. They also face high import barriers as the tariffs imposed by industrialized countries on staples such as meat, sugar and dairy products are almost five times those on manufactures. The European Union's tariffs on meat products peaked at 826 percent (Annan FT, March 5, 2001,

⁴ John Ravenhill (2005). 'Regionalism'. in John Ravenhill, ed., *Global Political Economy*, Oxford: Oxford University, pp. 117.

⁵ Geoffrey Edwards (1989). 'National Sovereignty vs Integration? The Council of Ministers'. In Jeremy Richardson, ed. *European Union: Power and Policy Making*. London: Routledge, p. 135. see also Vincent Wright (1998). 'The National Co-ordination of European Policy-Making: Negotiating the Quagmire.' In Jeremy Richardson, ed. *European Union: Power and Policy Making*. London: Routledge, p. 148-169.

⁶ Femi Adekoya (2013). 'Trade Liberalization: Any Hope for Protectionist Policy?' *The Guardian*, January 9, 2013:38, Lagos, Nigeria.

⁷ Peter Hardwick et al. (1990). *An Introduction to Modern Economics*. London Longman. Third Edition.

⁸ Esekumemu Clark (2011) *Basic Issues in International Economic Relations*, CCSS International Journal of Social Sciences, Vol. 1, No. 2. See also Kalen Mingst (2004). *Essential of International Relations*. New York: W.W. Norton.

‘a route out of poverty’).⁹

Multilateralism now faces serious challenges from regionalism as the latter is more concerned with its members’ interests. Today, despite the globalization process, regional groupings are proliferating in order to maximise and protect their interests against the onslaught of the WTO’s unfair liberalization of the global economy. Since the WTO came into force in 1995, the Organization has failed to tackle seriously issues of trade liberalization fairness among other things. In respect to WTO’s trade liberalization impact on the Nigerian economy. As the Guardian (January 9, 2013:38)¹⁰ pointed out:

Specifically, the textile sector according to experts was one of the major victims of WTO agreement, which left the nation’s sector unprotected, thus leading to the influx of cheaper textile imports, predominantly from China, as well as second-hand clothing from the United States of America and Europe.

This is why several countries including both developed and developing ones are forming economic groupings or the older ones such as the EU, NAFTA (North American Free Trade Area) and ECOWAS are strengthening their organizations and institutions. According to Ademola Oyejide (2004:11-12):

Trade liberalization through multilateral negotiations can also be a two-edged sword. While it serves as a vehicle for gaining external market access, it may also impose additional obligations, with particular reference to multilateral trade rules, which may prove burdensome to poor countries. In addition, the multilateral trade process is inherently intensive in the use of highly skilled man-power as well as analytical and institutional support. Poor countries that are unable to maintain adequate presence at the numerous meetings and consultations involved in the process of multilateral trade negotiations cannot expect to fully and effectively influence the system.¹¹

3. Obstacles to the Implementation of the Protocol on the Free Movement of Persons, Right of Residence and Establishment

Since the establishment of ECOWAS in 1975, it has faced one challenge after another as a result of a myriad of crises in its member states. The sub-region has been prone to incessant political instability, cross border disputes, poverty and under-development, civil conflicts, wars, proliferation of small arms and light weapons and recently terrorism. Thus resources and energy that should have been channeled for the development of ECOWAS are expended on conflict management in member states. Among others, billions of dollars were spent on both the Liberian and Sierra Leone wars in order to reconstitute those war-torn countries.¹² Even in the member States, millions of dollars are wasted annually on security controls and management as a result of civil conflicts and crimes. In Nigeria, for instance, during the Niger Delta crisis the security vote was over N400 million (Four hundred million Naira) yearly at the expense of other social infrastructure. Thus, such huge amounts spent on conflict transformation, if spent on welfare/social infrastructural development would definitely lead to mitigation of poverty in the respective countries. Poor infrastructural system including roads and ports have delayed the free movement of goods and services between member states.

Thus infrastructural deficit is the bane to the implementation of the protocol on the free movement of goods, services, capital in the ECOWAS subregion. The lack of good roads, well developed seaports have hampered the free movement of goods in West Africa. For instance, in Nigeria ships with cargos will wait for several weeks for their goods to be discharged. Certainly, some of the items are onwards to other ECOWAS countries. Also, the state of roads linkage in West Africa is pretty poor. It has really severely affected land transportation. Hence, the movement of goods and persons between countries is inhibited by the poor conditions of the roads. As such trailers and large luxury buses are having difficulties in going through some of these roads in the region. Again, there is no rail connections between ECOWAS countries. This is a major predicament came at to the implementation of the protocol on free movement.

In the respective ECOWAS countries the railway system is pretty poor or non existence. Indeed, in most countries the railway lines built by then colonial power had even disappeared because of neglectless by the post-colonial elites. Nigeria, for instance, the rail line built by then British colonial power was left to decay by the respective military regimes. The railway lines connected both the northern and southern parts of the country that facilitate the movement of goods and people between the north and south. Even goods such as raw materials and minerals were moved to seaports for shipments to Britain and elsewhere in the world. Actually, the

⁹ Kofi Annan (2001). ‘A Route out of Poverty.’ The Financial Times, March 5, London.

¹⁰ Femi Adekoya (2013). ‘Trade Liberalization: Any Hope for Protectionist Policy?’ The Guardian, January 9, 2013:38, Lagos, Nigeria.

¹¹ Oyejide, Ademola (2004). Nigeria in the World Trading System: The Challenge of Multidisciplinary Research and Policy Analysis. The Post-Graduate School, University of Ibadan. Ibadan University Press.

¹² Ibrahim Babangida (1991). Nigeria and the ECOWAS since 1985 towards a dynamic regional integration. Enugu: Fourth Dimension Publishing and Nigerian Institute of International Affairs.

disappearance of the railways in Nigeria was a major set back for development. The country had to rely on roads by using trailers and tankers for the movement of goods, including fuel. Thus were delayed, shortages and as well as accidents and explosions caused by the trailers, and tankers where people killed and burn to ashes. However, the present administration under President Goodluck Jonathan is now resurrecting the railway system, under his transportation agenda. Meanwhile, some of the airports in the ECOWAS zone are not large enough to accommodate large aircrafts, including cargo ones. Several airports in West Africa do not meet international standard and have to be developed to that level. In the subregion the movement of goods, including raw materials are being hampered because there are no cargo flights between the countries. It has led to raw materials such as food stuffs destroy. As such in Nigeria both the federal and state governments have constructed cargo airports in order to move goods in and out of the country. In addition, other constraining factors include electricity supply especially in Nigeria, high transportation costs, and poor telecommunications. However, the poor infrastructural level is also negating exports of the ECOWAS' countries.¹³

In Article 2 (d) of the ECOWAS Treaty, it provides for 'the abolition as between Member States of the obstacles to the free movement of persons, services and capital'. The importance is that restrictions such as national laws, immigration, customs and other law enforcement agencies should remove all such administrative restrictions that negate the exchange of goods, services, persons and capital between member states. Indeed, the development of the Protocol on the Free movement of good, services, persons and capital had and are still being hindered by both political and administrative restrictions since the 1980s to date. The national laws in Ghana makes it mandatory for ECOWAS nationals to register their businesses with about US\$30,000 (Thirty thousand dollars) before they can operate in Ghana while Liberia has laws that inhibit non-nationals from establishing business in the economy. Nigeria among other ECOWAS countries have limited the items of trade with members of the Community to those that are produced by member states without foreign contents hence fabrics can only be imported from Cote d'Ivoire and vehicles, grains, meat, rice and food items from Asia, Europe and Americas imported into ECOWAS countries are banned from crossing into Nigeria.

In 1983, the military regime under General Mohammadu Buhari persuaded the other Head of States of ECOWAS member states to defer the First Phase of the Protocol on the Free Movement of Persons, Right of Residence and Establishment because of political and economic exigencies in Nigeria. Again, the Buhari regime close the Nigerian borders, thus restricting the Free movement of goods, services and persons between Nigeria and other ECOWAS member states. Certainly, the action of the Nigerian government was a violation of the Treaty of ECOWAS which prohibited restrictions on free movement in West Africa. The measures by the military regime were a draw back for the integration process.¹⁴

Prior to the military intervention in politics on 31st December 1982, the then civilian administration under President Shehu Shagari also carried out a mass expulsion of other African citizens, including those from ECOWAS from Nigeria. The reasons given by the government for their expulsion were that they were illegal migrants and involved in crimes. Indeed, President Shagari's action was an affront against the ECOWAS' protocol on free movement of persons and goods. It could be argued that the Nigerian government's behaviour was informed by pressures from his ruling party – the NPN (National Party of Nigeria) fears of a defeat in future elections as a consequence of the economic downturn in the country.¹⁵ As Ake argued that NPN-led government mismanaged the nation's economy and despite earnings of US\$26bn from the export of cruel oil in 1980, by 1982 the country was broke. The Shagari's led government had to apply to the International Monetary Fund (IMF) for an assistance of US\$2.6bn. Infact, that amount he failed to secure because of the conditionalities, including the Structural Adjustment Programmes (SAP) the country will be subjected to.¹⁶ Indeed, the federal government also could not secure the US\$2.6bn from the IMF because of internal dynamicisms, including strong opposition from the Nigerian public and the government refusal to devalue the country's currency the Naira, then appreciated against most foreign currencies such as the dollar.

In the sub-region, the lack of political will and commitments by the Head of States had constrained and affected implementation of crucial policies such as harmonization of monetary, fiscal and agriculture. As such the lack of political appetite in deeper integration has slowed the ECOWAS Project. In Africa for instance, political leaders have signed agreements (treaties) that they do not follow up in the implementations thus, the continent is littered with several of such examples: The Lagos Plan of Action (LPA) 1981, was an Organization of African Unity (OAU) development Plan to restructure the African economy and the African Economic Community Treaty (AEC) 1991 were not implemented by the African States. Also, because of lack of serious commitments by most

¹³ Oyeyide, Ademola (2004). *Nigeria in the World Trading System: The Challenge of Multidisciplinary Research and Policy Analysis*. The Post-Graduate School, University of Ibadan. Ibadan University Press.

¹⁴ Tunde Babawale (1990). 'From Timidity to Interventionism: Nigeria's Foreign Policy in West Africa, 1969-1989.' ZAST Nr. 7/8. Vienna.

¹⁵ Clark Esekumemu (1993). *Nigerian Foreign Policy and the European Community*. Krems: University of Krems, Unpublished MAS Thesis.

¹⁶ Ake Claude (1996). *Development and Democracy in Africa*. The Brookings Institution, Washington, D.C.

African governments, they are not even interested in paying up their levy to their organizations, including the African Union (Former OAU) and ECOWAS are facing yearly.

Civil conflicts in some ECOWAS countries are hampering the free exchange of goods, services, persons and capital. In Cote D'Ivoire, for instance, has in the past four years been engaged in power tussle between the political elite leading to political crisis. Thus, the struggle for national cake led to the North-South dichotomy that eventually led to political violence (close to a civil war) in the country. ECOWAS forces were deployed for peacekeeping so as to separate the belligerents and prevent the escalation of the civil conflict. In fact, Cote d'Ivoire before the political crisis was one of the most prosperous and peaceful countries in Africa. Now, the crisis is affecting the free movement of goods, services, persons and capital between Cote d'Ivoire and other ECOWAS countries. Even now, tourists including foreign investors from Europe, North America etc. are hesitating to visit the country as a consequence of the crisis. The civil conflict has ended because ECOWAS was able to broker a peace between the political opponents. Meanwhile, Liberia is going to the polls in the next three months and the President has requested for ECOWAS to deploy more troops to its borders with Cote d'Ivoire because thousands of Ivoriens who have been joined by the supporters of the former President still run to the borders because of the political crisis. The Liberian President wants ECOWAS to deploy troops to stop the Ivorian ex-soldiers from disrupting the forth coming elections.¹⁷ Indeed, issues of cross-border security is of serious concern in West Africa for instance, during the Liberian and Sierra-Leonen crisis, respective ethnic groups from both countries supported their ethnic groups.

Since the end of both the Liberian war and Sierra Leonien war, there has been a proliferation of small arms and light weapons in the West African region. These arms are used for civil conflict, including ethno-religious crises, Political violence and crimes in the states. Nigeria, for example, had witnessed ethno-religious conflicts in the northern parts and in the South-South, the freedom fighters (MEND) had challenged the Nigerian State over issues of fiscal federalism, injustice and environmental degradation in the Niger Delta region. Again, some Politicians have provided sophisticated arms like AK47 Rifles to their thugs with which to attack their political opponents among others.¹⁸ These arms have fallen into the hands of ethnic militia groups such as the Oodua Peoples' Congress (OPC), Movement for the Actualization of the Sovereign State of Biafra (MASSOB), Boko Haram etc. that have caused havoc in the towns and other places. The ethnic militia groups noted that they are fighting against injustice, marginalization and oppression of their ethnic nationalities by the state. In the past 5 years, this has been a plague in the body politics of the Nigerian states. Again, the problem of terrorism in West Africa, especially in Nigeria where the Boko Haram (Islamic Sect) is causing havoc in the northern parts, including the Federal Capital, Abuja. This radical Islamic Sect which is anti-Western education has attacked, the security forces, churches, market places and most recently drove a car packed full with explosives into the UN House in Abuja that left over 23 people killed. Indeed, this is a major challenge for the Nigeria government to combat before the country will be a launching pad for other Islamic group such as al-Qaeda into other West African countries. Since the developments in North Africa such as the so-called Arab Spring which saw/led to regime changes in Tunis, Egyptian, and Libya. The situation in North Africa reignited actions of the Islamic sects including al Qaeda in West Africa. After the North Atlantic Treaty Organization (NATO) and the freedom fighters in Libya ousted Col. Mummar Ghaddafi. It gave fresh impetus for other Islamic sects in North and West Africa to joined forces in order to work and cause confusion in West Africa. For instance, arms and bombs are flowing from North Africa, especially from Libya into West Africa, among others. Most recently, we have seen the activity of the Islamic sects in Mali one of the ECOWAS' countries, where the Islamic sects and al Qaeda joined to seize half of the country. Infact, there was a political crisis in Mali between the political and the military elites as such the Islamic sects made in road into the country. After taken half of the country the Islamic sects, including al Qaeda started to destroy cultural and historical places, including the famous city of Timbutu. Indeed, several monuments in Timbutu are recognized United Nations' cultural heritage, the ECOWAS, the African Union (AU) and the UN appealed to the Islamic sects to stop the destruction in the city of Timbutu, but to no avail. In order to stop the destruction in that city and other places in the country the UN Security Council passed a resolution in November 2012 and authorized ECOWAS to intervene militarily in Mali to restore peace and reconstitute democratic government in that crisis torn country. Thus, resources and energy that should have been focused in the integration process will now be directed to peacekeeping and peace-building in Mali. Any moment ECOWAS will deploy troops to restore order in that fragile country. Meanwhile, the Islamic sects in Mali have also joined forces with those in Nigeria, including the Boko Haram in attacking Nigeria. They are involved in cross borders' attacks. Places such as churches, towns and government establishment are targeted by both Boko Haram and their al Qaeda sponsors. Also lethal weapons including bombs are flowing into the hands of the Boko Haram from North Africa. Another major challenge facing the member states of ECOWAS is the

¹⁷ The Liberian Presidential election was successfully held and the incumbent President was reelected and had been sworn-in.

¹⁸ Zack-William (2001). 'No Democracy, No Development: Reflections on Democracy and Development in Africa.' Quarterly Journal of the Centre for Democracy and Development (CDD). VOL. 2, No. 5, Journal – March. pp. 4-8. London.

issue of sea pirate that is having serious adverse effects on their economy.

The Gulf of Guinea has seen the surge in sea pirates' activities in recent days that is constituting a grave threat to the subregion. Infact, sea pirates are posing menaces to shipping lines, including hijacking and boarding of ships carrying cargoes, crude oil and passengers to demand for money from the owners (corporations) and also rob the passengers of their possessions along the West African waters. ECOWAS has deployed navy and marine police to combat the threats posed by the pirates. It is thus a major challenge facing the small naval force of West Africa. One can argue that the problem of poverty which leads to civil conflict as well as youth restiveness is the bane of piracy in the coast of West Africa. The high unemployment rate among the youths pushed them to pirate activities, among others, in order to survive and feed their family. Separately, Somalia as a failed state led to some of the youths taken to piracy which is now a cog in the neck of the international community. Today, the world most powerful naval forces, NATO, Russia, China, etc. are having problems in combating the grave threats posed by the Somali pirates by hijacking of ships in the Gulf of Aden and East African coast. Actually, Somalia degenerated into a failed state when the then President Said Barre fled the country in the mid-1980s. The country was taken over by different war Lords, who were struggling for their selfish interest. Nevertheless, the international community over the past 20 years had worked tirelessly to reestablish peace in that war-torn country. Currently, the UN/international community has managed to reconstitute order and law, as well as a government in place in the capital and its environs in Somalia.

Meanwhile, trade is a major instrument that contributes to development. Trade is still facing several challenges that are compounding growth of intra-community business relations, including the harmonization of standards.

Trade has been recognized as a major engine of growth and economic development for developing countries thus, a potential contribution to poverty alleviation. However, for many reasons including difference of standards from a country to another, West Africa intra-regional trade is still at low level (Vanguard, December 28, 2012:26).

Other factors that have impeded the integration process include a high illiteracy level of the peoples of the region which has resulted in a low awareness about the community and the privileges, opportunities and benefits attached. The activities of external forces have greatly hampered the progress of the integration process, for instance, while the Francophone countries have become a dumping ground for goods and services from their former colonial power, Ghana has also become a dumping ground for Chinese goods. The dumped goods are smuggled into other ECOWAS states thereby weakening the key elements of the integration which are trade and development.

Thus as we have identified in the paper those challenges are major obstacles to the free movement of goods, services, persons and capital within the ECOWAS region. As such it has delayed a deeper integration in the Community. Meanwhile, the ECOWAS Council of Ministers met in Abuja to discuss on how to tackle the impediments in implementation of the Protocol on the Free Movement of Persons, Right of Residence and Establishment (Vanguard, August 23, 2011: 20)

4. Protocol Relating to Free Movement of Persons, Rights of Residence and Establishment

In article 27 stipulates that member states shall take measures to ensure the free movement of Community citizens and the right of residence and establishment. Thus, the objective of the protocol is to facilitate the pace of movement of persons, services and capital within the Community for the realization of the goals enshrined in the ECOWAS Treaty.

4.1 Time-Frame:

The operation of the provisions of the Protocol shall be accomplished in three stages:

Phase I – Right of Entry and Abolition of Visa

Phase II – Right of Residence

Phase III – Right of Establishment

Thus, for the realization of the protocol on free movement in West Africa is still hamstrung by the member states' policies, including issues of fear of domination and sovereignty. For instance, Phase I which requires the right of entry and abolition of visa is yet to be achieved since several years. Community citizens still needs to obtain visa before they would be allow to enter or travel to another member state. At the port of entry visa is issued. National rule and regulations are a major constrain to the economic integration process in West Africa. In order, to make the sub-regional passport free zone like the European Union (EU) is inhibited by national sovereignty concerns.

Issues of immigration, laws and regulations as well as refugees have led to a delay in the implementation or re-imposing of border control in several regional groupings such as the EU. The EU a famous regional economic grouping is currently facing a problem over its passport-free Schengen travel zone.

5. The Passport-Free Schengen Travel Zone

It was first created by France, Luxemburg and Germany. In the EU, it was pretty difficult for one member state's

police to chase/pursue criminals into another member state, because national laws do not accommodate (allow/permit) such an action within the Union itself. In subsequent years other EU states key into the policy that was accepted and became the Schengen Visa. However, with the exception of a few states, including the UK who are yet to make it parts of their immigration regime. Moreover, in the formative years between those three states, France, Luxemburg and Germany, they initially allowed their police to chase criminals cross their borders 20km inside their respective states. Indeed, before the Schengen arrangement police can only chase criminals to the border between the neighbouring states and stop, while the criminal has cross over the border to the next state and avoid be arrested for crime committed by the pursuing state.

The Schengen-open borders between 26 EU member states is now under threat from states' sovereignty. Among the Schengen states some are now taken unilateral action(s), to restrict movement by re-imposing border control. For example, in 2011 France re-imposed border check and control between France and Italy, because the latter allowed several Tunisian refugees, those who fled the Arab Spring into Italy and then several went onward to France. As such France re-imposed border control and check trains and cars crossing the borders between the two countries. Other examples include Germans checking Czechs' buses crossing into Germany (EURONEWS, July 2012).

Thus, for the idea of Europe (EU) without borders and the freedom of movement of Union citizens under Schengen, a model other regional economic groupings are emulating is being undermined by state's realpolitik. Meanwhile, the passport-free Schengen policy is not automatic for any new member who joined the EU. For instance, Romania and two other members are being denied this right (privilege) visa free (The Economist, July 14th, 2012:9)

Furthermore, implementation is a major problem in regional economic groupings. Even some member states resort to cheating in order to avoid implementations as pointed out by some scholars.¹⁹

6. Conclusion and Recommendations

6.1 Recommendations

- The crux of all the identified problems is lack of good governance in ECOWAS member states. Serious efforts should therefore be made to strengthen good governance, so that peace and stability could be entrenched in the Community countries;
- Commitment to economic integration project should be encouraged;
- Strengthen civil society to underscore and underpin the democratic system etc.
- Administrative restrictions that are compounding the free movement of goods, services, persons and capital should be removed to allow free movement in the sub-region
- Serious efforts should be made to alleviate poverty and tackle corruption which is the bane of development in ECOWAS region;
- There should be co-ordination and harmonization of trade regulations and building-up of markets;
- Peace-building in post-conflict states should follow up and given impetus for lasting peace to endure.
- Infrastructural development should be given top priority as means of strengthening and boosting intra-community trade within West Africa.
- A strategy should be articulated to combat both terrorists and pirates in the ECOWAS region.

6.2 Conclusion

ECOWAS was established in 1975 when the Treaty was signed in Lagos, Nigeria by 15 member states. In the 1980s Cape Verde acceded to the Community and became the 16th member. Several reasons led to the formation of ECOWAS including economic weakness, security, to increase intra regional trade, improve standard of living and political influence. Thus to encourage the exchange of goods, services, labour, and capital between the member states, the Community provided in its Protocol for the abolition of obstacles to the free movement in West Africa. As such to facilitate the pace of trade and commerce that was under 4% as a consequence of colonial legacies as African countries trade less among themselves and more with their former colonial powers. Since the 1980s when the Protocol on the Free Movement of Persons, Right of Residence and Establishment was put in place, it has yet to realize its goals and purposes because of various factors which include the lack of political appetite for it, civil conflicts, wars and administrative restrictions among others that are inhibiting the protocol implementation.

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¹⁹ Jeremy Richardson (1998). 'Eroding EU Policies: Implementation Gaps, Cheaping and Re-steering' In Jeremy Richardson, ed. European Union: Power and Policy-Making. London: Routledge. Pp. See also Dunn I. John (1989). The European Community. London: HMSO.

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