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**Nigeria and ECOWAS: a Study of the**  
**Obstacles to Nigeria's Implementation of**  
**ECOWAS Protocols**

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NIGERIA AND ECOWAS: A STUDY OF THE OBSTACLES TO  
NIGERIA'S IMPLEMENTATION OF ECOWAS PROTOCOLS

A PROJECT REPORT PRESENTED TO THE DEPARTMENT OF  
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## ABSTRACT

Nigeria has not implemented some of the ECOWAS Protocols it has ratified. One explanation for this is its preoccupation with pursuing domestic interests and issues.

Much as it cherishes the ideals of integration, the imperatives of satisfying domestic needs makes it reluctant to implement ECOWAS protocols. Thus its attitude to ECOWAS becomes that of ambivalence and vacillation. This finds expression in the non-implementation of ECOWAS protocols.

In Nigeria, the structure and process of decision-making on ECOWAS matters exist only in name. Taking decisions by the established institutions that have responsibility for ECOWAS matters and by the laid down procedures is a rarity. Consequently decisions are often taken without due regard to its long-term implications for Nigeria's obligation to ECOWAS. As a result, the implementation of ECOWAS protocols is stultified.

DEDICATION

This work is dedicated to my parents

His Royal Highness, Igwe and Mrs C.C. Onyia

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of decision making in Nigeria affect the implementation of ECOWAS protocols.

The work is divided into five chapters . In chapter one - which is the introductory chapter, we clarify the problem under investigation, review relevant literature, propose a theoretical framework, advance some hypotheses and indicate methods of research.

In chapter two, we discuss the historical background to the formation of ECOWAS. In addition, Nigeria's role in the formation of ECOWAS is outlined here. Finally the aims of ECOWAS and its organisational structure are treated.

Chapter three is an examination of some ECOWAS protocols. Specifically, two ECOWAS protocols have been selected for examination. They are the protocol relating to the free movement of persons, right of residence and establishment; the protocol relating to the definition of the concept of products originating from member states which is aimed at trade liberalisation.

The fourth chapter deals with Nigeria's implementation of the two protocols we are studying. It focuses on certain actions taken by Nigeria in the past which have implications for the ECOWAS protocol on free movement of

persons and that of trade liberalisation. As a corollary, the structure and processes of decision making as they affect the implementation of ECOWAS protocols are also treated.

The fifth chapter ends the work with a summary and conclusion.

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Whatever position I have taken, in the various discussions and arguments advanced, I accept full responsibility. For whatever has been achieved, Glory be to God; only the mistakes are mine.

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## CHAPTER ONE

### INTRODUCTION

The Treaty of the Economic Community of West African States (ECOWAS) was signed on 28 May 1975. The Countries whose Head of State and Government signed the ECOWAS Treaty in Lagos, Nigeria were Nigeria, Liberia, Togo, Ghana, Upper Volta (now Burkina Faso), Ivory Coast, Guinea, Gambia, Benin, Niger, Sierra Leone, Guinea - Bissau, Mauritania, Senegal and Mali. Following the signing of the Treaty, Republic of Cape Verde joined as the sixteenth member state in 1977.

The formation of ECOWAS represents an attempt at regional economic integration in the West African subregion. Economic integration among a group of countries has as its prime objective, the acceleration of economic and social development in the countries concerned. The concept primarily concerns itself with the optimisation of resource use in a spatial sense.<sup>1</sup>

In the particular case of Nigeria and ECOWAS, it is perceived as a grand strategy for breaking out of under-development and dependence. Having been subjected to decades of colonisation with the consequent balkanisation of territories and disarticulation of their economies, the formation of

sub-regional integration became a fulcrum for articulating and harmonizing the developmental priorities of the sub-region.

It is noteworthy that since the attainment of independence, West African States, like many other developing countries, have been making efforts to achieve economic growth and the attainment of a high level of standards of living for the masses of the people. However, the sizes of the national economies and markets of these states are too limited and their resources too scarce to allow for the rapid transformation of their stagnant economic structures and the achievement of economies of scale. Consequently, economic cooperation among the West African States has offered the only practical means for building more viable national economies.

The necessity for economic cooperation particularly in the area of trade cannot be glossed over. In fact, Wilfred Ndongko underlined this point when he said:

Economic cooperation arises from the fact that inter-African trade since Independence has been minimal because of the continuous concentration of export and import trade in the former metropolitan countries. Surely this colonial pattern of trade cannot be changed simply by intensifying commercial relationship with the metropolitan powers, through complete African association with the European Economic Community...2

In recognition of the salutary effects of economic cooperation, Nigeria took up the challenge to bring about a viable regional economic bloc in the sub-region.

In an effort to achieve some of the objectives for which the ECOWAS was set up, several protocols have been formulated by the community. The examination of some of these protocols, particularly how Nigeria has implemented those it has ratified, forms the focus of our study.

However, we have chosen only two protocols. These are the protocol on free movement of persons, right of residence and establishment; and the protocol relating to the definition of the concept of products originating from member states. Nigeria has ratified both of them. Altogether, there are twenty seven ECOWAS protocols including supplementary protocols. Nigeria has ratified most of them.

Our choice of the two protocols is informed by one principal factor. This has to do with the furore they have generated as a result of certain actions taken by Nigeria in the recent past. Specifically there was the 1983 expulsion of illegal aliens as it affects the protocol on free movement. Secondly there was the 1984 closure of Nigerian borders as it affects the protocol relating to the definition of the concept of products originating from member states -



a protocol aimed at trade liberalisation.

Several problems have been encountered with respect to the implementation of these protocols. The one that is most striking is the non-ratification of some of these protocols by some member states. It is important to note that for any of the community's protocols to become operational, it must be ratified by at least seven member states.

While the community has been strong on resolutions, it is notably short in implementation. The Community was created in a period of relative economic prosperity in Nigeria. However the country is now witnessing severe economic and social crises which could compel it to re-evaluate its role in the community and seek extra-legal allies in order to find solutions to its problems. The implementation of critical aspects of the Treaty is also taking place in a period of general crisis in the global economy.

The work is divided into five chapters. In chapter one which is the introductory chapter, we clarify the problem under investigation, review relevant literature, propose a theoretical framework and advance some hypotheses and indicate methods of research.

In chapter two, we discuss the historical background to the formation of ECOWAS. In addition, Nigeria's role in the formation of ECOWAS is outlined here. Finally the aims of ECOWAS and its organisational structure are treated.

Chapter three is an examination of some ECOWAS protocols. Specifically, two ECOWAS protocols have been selected for examination. They are the protocol relating to the free movement of persons, right of residence and establishment; protocol relating to the definition of the concept of products originating from member states which is aimed at trade liberalisation.

The fourth chapter deals with Nigeria's implementation of the two protocols we are studying. It focuses on certain actions taken by Nigeria in the past which have implication for the ECOWAS protocol on free movement of persons and that of the definition of the concept of products originating from member states.

Chapter five ends the work with a summary and conclusion .

Note that in this work, wherever the term community is used, it should be construed to mean Economic Community of West African States.

## 1.1 OBJECTIVE OF STUDY

The idea of regional economic integration as a model for accelerating and sustaining self-reliant economic development in the sub-region has gained currency. Similarly, Nigeria's role in the formation of ECOWAS has never been in doubt. Yet much systematic effort has not been made by scholars to study Nigeria's implementation of different ECOWAS protocols with a view to finding out how its intentions or proclamations are matched with concrete actions.

Thus, the purpose of this work is to understand the factors which impede Nigeria's implementation of ECOWAS protocols. The work is specifically interested in studying some ECOWAS protocols that Nigeria has ratified and how it has implemented them. ~~To~~ that end, the process of decision making in Nigeria and how it affects Nigeria's implementation of ECOWAS protocols will be given some attention.

The study is not necessarily aimed at breaking a new ground. Rather, the primary aim is to explore an area which hitherto had not received much emphasis.

## 1.2 STATEMENT OF PROBLEM

The major problems this work sets out to examine are as follows:

1. Why has Nigeria failed to implement the protocols it has ratified?

2. How does the process of decision making in Nigeria affect the implementation of ECOWAS protocols?

### 1.3 SIGNIFICANCE OF STUDY

The study is significant because it will lead to a total examination of Nigeria's commitment to, and implementation of some ECOWAS protocols. It is instructive to note that a nation's foreign policy is usually the outgrowth of its domestic policy. As a result, Nigeria's attitude to the adoption and implementation of ECOWAS protocols will to a great extent depend on its domestic economic situation. This is why an examination of how the process of decision making in Nigeria affects the implementation of ECOWAS protocols becomes very important.

In the long run, it is hoped that the result emanating from this study will help policy makers in Nigeria to ensure that Nigeria's foreign policy towards ECOWAS accords with its national economic priorities.

In addition, the study will be a valuable material for ECOWAS officials. It will help them to understand the factors that account for Nigeria's attitude to the regional body. If there are occasions where Nigeria has prevaricated or failed to live up to expectations, the circumstances surrounding such actions will become clearer.

Finally, the work will be useful to students of international relations particularly those interested in regional economic integration. This is because the work is yet another attempt to study a regional economic grouping from the stand point of a country that gave impetus to its formation.

#### 1.4 SCOPE OF STUDY

Although the topic reads, "Nigeria and ECOWAS: A study of the Obstacles to Nigeria's implementation of ECOWAS protocols," it is very important to state here that we are not going to study all the ECOWAS protocols. Altogether, there are twenty seven of the community's protocols. It will therefore not be possible for us to do an indepth study of all the ECOWAS protocols within the limited time available.

Consequently, we have chosen only two of the community's protocols for examination. These two protocols have been ratified by Nigeria and we want to see how it has implemented them.

The study will also not go into the technicalities of how ECOWAS protocols are made or arrived at since that is not our primary concern. We will therefore focus attention

on the two protocols chosen, examine how Nigeria has implemented them and how the processes of decision making in the country affect their implementation.

### 1.5 LITERATURE REVIEW

ECOWAS as a regional economic bloc in the West African sub-region is no longer a new phenomenon. Its existence has spanned seventeen years. As a result, it is expected that a lot of study must have been done on the community. Expectedly there is a lot of literature on the activities of the organisation. But most of the work have focused attention on the historical origins of ECOWAS, the role Nigeria played in its formation, the problems faced by the community and its progress vis-a-vis the aims that it was set out to accomplish.

However, with respect to the dimension from which we are conducting our own study, not much seems to have been done. Much systematic effort has not been made by scholars to address the specific questions we have set out to answer. These problems have to do with why Nigeria has failed to implement the protocols it has ratified and how the processes of decision making in Nigeria affect the implementation of ECOWAS protocols.

We shall go ahead to examine the literature with a view to finding out the attempts that have been made by

scholars to address the two basic problems we have posed in this work. In doing this, we are going to relate the review systematically to the problems we have posed in this work. We want to find out how they have been tackled.

Femi Aribisala.<sup>3</sup> Writing on "The Economic Community of West African States: A Progress Report" first tries to identify the factors that made the formation of ECOWAS an imperative. The first point he makes is that the artificial nature of national boundaries in West Africa bequeathed by the colonial administration introduced discontinuities in trade and other organic patterns of regional interaction. Hence ECOWAS became necessary in order to reverse these incongruities by ensuring greater trade and interaction among countries in the sub-region.

Next, he argues that the search for wider markets to accommodate large scale industries explains the effort to forge sub-regional economic integration.

Further, he contends that the creation of the regional organisation derived from the need for collective action to provide much-needed negotiating leverage to West African states in their economic relations with the rest of the world particularly the EEC.

Aribisala then examines the progress ECOWAS has made vis-a-vis its central principles and provisions. He notes that inspite of the trade liberalization scheme, intra - ECOWAS trade is negligible as foreign trade of the countries of the sub-region is still carried out pre-eminently with non-ECOWAS countries mainly European. Other salient areas of cooperation which the organisation wishes to encourage are industrial cooperation, transport and communications, monetary and financial matters, free movement and defence.

Finally, he examined the major problem areas of ECOWAS and identified the following: funding, differences in levels of economic development, conflicts of loyalty and the Nigerian equation.

His thesis addresses some of the problems confronting ECOWAS which by extension could also be regarded as obstacles to the implementation of ECOWAS protocols. But in relating this to why Nigeria has not implemented the protocols he and other member - states had ratified, most of the factors he identified may not give adequate explanation. With respect to funding, Nigeria is up to date in her contributions to ECOWAS. Indeed she contributes about 32.8% of the total yearly budget of ECOWAS. However there



is a sense in which funding could constitute obstacle to Nigeria's implementation of ECOWAS protocols. This is when it <sup>is</sup> viewed against the backdrop that Nigeria has not derived commensurate benefits from ECOWAS in comparison with her contributions. This could discourage her from implementing the community's programmes. Also the different level of economic development cannot explain Nigeria's ambivalence. If anything, the fact that her economy is relatively more developed than others should rather spur her to implement the community's programmes. For as Aribisala noted, the free-trading zone envisaged by ECOWAS would tend to favour the more developed states, at the expense of the less - developed. The issue of conflict of loyalty cannot also explain Nigeria's non-implementation of protocols since she does not belong to CEAO which Aribisala identified as commanding the loyalty of its members. Although he identified what he called the Nigerian factor, which refers to the unfavourable disposition of Nigerians to ECOWAS, his thesis did not systematically address our questions. It gives an insight into the problems facing ECOWAS, but how these problems affect Nigeria's implementation of ECOWAS protocols is difficult to establish from

his work.

In his own work titled, "Nigeria and West Africa: Problems and prospects in future relations" R. Omotayo Olaniyan<sup>4</sup> argues that given the divergent political and economic orientation in the sub-region, Nigeria's relations with it have not been particularly strong. According to him, Nigeria's relations with it have been questioned by other states in the area as well as extra-sub-regional powers which perceive the possibility of Nigeria's domination as a result of its economic strength.

He observes that Nigeria has not been active in tactical function which relates to specific steps in the adoption of strategy for selecting integrative measures. He mentions specifically the issue of expulsion of illegal aliens which in his view did not violate the Treaty but nevertheless has done remarkable damage to the spirit of integration.

Furthermore, he states that, the implementation of the first phase of the free movement of persons protocol has resulted in adverse economic and social situation in Nigeria. In addition, he argues that although there have been a number of supportive influences, the main drawbacks are to be found in the historical and socio-economic formation

problems of the sub-region. He concluded that regional economic conditions are not likely to alter significantly in the near future since the problems of structural transformation of national economies have not been adequately addressed.

Although Olaniyan did not address specifically the questions we posed, we can discern from his analysis that Nigeria's non-implementation of protocols stems from its economic situation or rather an attempt to solve its domestic problems. However there are two problems with his analysis. First, his argument that the expulsion of illegal aliens was not a violation of the Treaty of ECOWAS is a misrepresentation of facts. He blinds himself to the fact that the correct procedures for expelling aliens namely informing the home countries of the aliens as well as the Executive Secretariat of ECOWAS well in advance were not followed. Secondly he committed an analytical error by imputing that the implementation of the first phase of the free movement of persons protocol has resulted in adverse economic and social situation in Nigeria. The adverse economic and social situation in Nigeria was in spite of the implementation of the said protocol and not precisely because of it.

Another important work is that of Yaa frempomma Yeboah who wrote on "The crisis of International Migration in an

integrating West Africa: A case study of Nigeria and Ghana" He examines two spectacular episodes of mass expulsion of illegal immigrants within the sub-region in the overall context of contemporary cross-border migration in West Africa. He observes that contemporary cross-border migrations in West Africa are distinct in origin and character from traditional migration. They have been rooted in the integration of the region into the global economy and in the policies of economic expansion of the colonial era; and continue to be propelled by the structural imbalances created by these policies which are still maintained by independent government, he further argued. According to him, they are more often than not migrations of seekers of jobs rather than the traditional migrations of whole communities known to the precolonial period.

Yeboah suggests that the the ECOWAS model of regional economic integration is a market based model which assumes that the region's economy can be developed most effectively by dismantling all barriers to the free mobility of factors of production including labour. This market based model (unlike the project based cooperation of South African Development Cooperation conference (SADCC) for example) is likely to reinforce existing imbalances, as Nigeria's

immigration crisis has already shown, he further declares.

The writer analyses the mass expulsion of illegal aliens from Ghana in 1969 and Nigeria in 1983 within the context of economic decline in the two countries within the period. With respect to Ghana, he states that the expulsion of aliens in 1969 was patently related to an attempt by the newly elected Busia government to satisfy the interests of a fraction of the emerging bourgeoisie. In Nigeria, he argues that it was a political tactic to conceal the Shagari governments' corruption and mismanagement of the economy.

Yeboah's work is very incisive and useful. It relates fundamentally to an action taken by Nigeria which affected the implementation of the protocol on free movement of persons. An important observation he makes is that economic difficulties which impel nationals of ECOWAS to migrate from one country to another, is equally used as rationalisation to expel them when economic difficulties begin to mount in their host countries. However these economic problems could be politicised as Nigeria did with the consequence that aliens are portrayed as the cause of the economic problems.

Another writer on a related subject is M.I.M Abutudu<sup>6</sup> who titled his work, "Nigeria's Economic crisis and the elaboration of the ECOWAS Protocol on free movement of persons."

Abutudu first makes the point that ECOWAS favours a commercial approach to integration which requires the complementary policy of free movement of persons. According to him, a free movement policy was expected to bring the impact of the community to bear directly on the lives of nations of member states. This would in turn elicit the grassroot support crucial to the consolidation of ECOWAS.

He next traces Nigeria's economic crisis in the 1980's and observes that while in 1980, the economy was at its peak, by 1982, decline had set in. Precisely, he argues that by 1982, Nigeria had begun to display the crisis pattern of the relatively wealthy peripheral capitalist economy with a massive externalization of foreign exchange at a time when the capacity to earn it was declining. The private and public sector response to the situation was mass retrenchment of workers.

The writer further examines Nigeria's attitude to the phase two of the protocol on free movement. With respect to the first phase, he notes that the initial

resistance to the commencement of the residence phase came from Nigeria and Liberia who asked for first, a two year suspension on the commencement of the second phase. Second, they wanted exemption status during the early stages of implementation. The authority's response to the request was a one year postponement of the commencement of the second phase which was to provide opportunity to dismantle those unilateral policies which marred the operation of the phase one.

He observes that Nigeria's position with respect to second phase was that only alien professionals or workers that a member state deems crucial to its manpower requirements may take advantage of the residence and employment privileges of the second phase. The expatriates qualified to take up employment in the country were restricted to six categories of professionals: Engineers, Medical doctors, Architects, Teachers, surveyors and Bilingual secretaries.

An important point he makes is that unlike the first draft of phase two which emanated from the ECOWAS bureaucracy, the second phase as finally adopted was a Nigerian initiative. Nigeria's proposals expressly upheld for the member state, the retention of those

powers which would allow for a careful national control of the inflow of aliens from other member states.

Finally with respect to the expulsion of illegal aliens in 1983 he posits that it was one of the various measures adopted by the Nigerian state to protect its accumulation and self-reproduction base. However, he argues that if the action of the Nigerian government in expelling illegal aliens was against the spirit of ECOWAS, the letter was however in no way offended or violated.

Abutudu's work locates Nigeria's attitude to the ECOWAS protocol on free movement within the context of the economic crisis in the country. His thesis reveals how Nigeria's attitude has affected the implementation of the protocol on free movement especially with respect to its categorisation of the community citizens that are entitled to right of residence. However his analysis did not clearly show whether the non implementation of the protocol stemmed from a genuine desire to solve the country's economic problems or whether the non implementation of the protocol has brought about improvements in the economy. Besides Abutudu accepted that the expulsion of illegal aliens did not offend the letter but rather



the spirit of ECOWAS. This argument is belied by the fact, as we earlier mentioned that the procedures for expelling aliens were not followed by Nigeria.

The late Olajide Aluko writing on "the expulsion of illegal aliens from Nigeria: a study in Nigeria's decision-making" made the first point that the 1983 expulsion of illegal aliens created the worst international crisis for Nigeria since the end of the civil war and that it created a near - Universal and unexpected international hostility towards Nigeria.

In analysing the factors that influenced the expulsion order, he adopted Michael Brecher's systems approach which sees foreign policy decision as a dynamic system. At the external front, he identified the global economic recession as a factor. While at the bilateral level, he posited that the pressures for the aliens expulsion originated from two sources viz.

- 1) the involvement of some foreign nationals from neighbouring countries in religious disturbances in Nigeria; and
- 2) the poor political relationship between Accra and Lagos following the Rawlings coup d'e'tat of 1981 coupled with the involvement of some Ghananians in some crimes including armed robbery in Nigeria.

He pointed out that the decision to expel illegal aliens was based on the recommendation of senior civil servants in the Ministry of Internal Affairs after the robbery incident at the Vice-President's residence. According to him, they neither solicited the opinion of the foreign Affairs Ministry on the international repercussions of the problems nor the Executive office of the President for the political and economic implications of the decision.

Aluko's work is related to our second question which centres on how the process of decision making in Nigeria affects the implementation of ECOWAS protocols. His thesis reveals as the particular case he dealt with shows that there is no coordination of the structure and process of decision-making on ECOWAS matters. The body responsible for ECOWAS matters, i.e. the permanent committee on ECOWAS, was by passed. However his work focuses only on a particular decision, but we are concerned with how the entire structure and process of decision-making affect the implementation of ECOWAS protocols.

What is clear from the foregone review is that most of the literature that exists on the subject matter of this

work have not given satisfactory answers to our questions. It then behoves us to provide these answers. Where inadequate explanations have been given, we will endeavour to provide better explanations.

#### 1.6 THEORETICAL FRAMEWORK

In order to meaningfully analyse and understand the issues that form the core of this work, we have adopted as our theoretical framework, the Neo-functionalist theory of integration - a theory whose major exponent is Ernst B. Haas.

The linch pin of Neo-functionalism is its stress on the individual motives and interests of elite groups involved in the process of integration. Related to that point is its emphasis on the role of self-interest in shaping the perception of integration. It places premium on the motivation of the actors involved and the intended and unintended consequences of their individual pursuit of self-interest.

In very simple terms, the theory states that the existence of institutions which perform common or joint functions, tends to enhance understanding and cooperation among members. But the performance of these functions

has to be at the cost of some deprivation; this therefore demands some sacrifice from the members. As common functions become fruitful, more are added. Nevertheless, the addition of these functions is not automatic. Since the carrying out of joint functions brings about some deprivations, there has to be the political will to ensure that the problems it creates are counteracted. It follows that new functions will only be added if the members benefit from the previous functions performed.

If the members do not derive any benefit, they will be reluctant to take on new functions. In other words, the transfer and generalisation of integrative lessons learned and habits formed in one context of functional collaboration to another will only occur if actors on the basis of interest-inspired perception desire to adapt integrative lessons learned in one context to a new situation. What stimulates this desire is the extent to which they have gained from previous experiments. In fact the central element of the theory is that in an integrative scheme, participants in an institution performing joint functions will only add new ones if the previous functions carried out are beneficial to them.

As applied to ECOWAS the point should be made that ECOWAS is an institution contrived to coordinate the performance of certain functions. For these functions to be carried out, member-states have to make some sacrifice. In addition, the success achieved in performing previous functions will make new ones to be added. Evidence shows however that member-states suffer more deprivation than make gains from the integrative scheme. For instance the trade liberalisation scheme which tends to eliminate custom duties and other charges of equivalent effect leads to great revenue loss by members - states. For customs duties account for a greater percentage of revenue of most member-states. Consequently when protocols are formulated, member - states feel reluctant to implement them. The reason is that the political will which should have been generated by the benefits they ought to derive is lacking. Put differently, since member-states do not benefit from the performance of joint functions, they do not develop the political will to add new ones.

In the particular case of Nigeria, she was one of the prime movers to the establishment of ECOWAS. In bringing the regional body into being, it naturally

expected to derive some benefits from it. However the sacrifice it is making is becoming unbearable. It has continued to bear the greater burden of sustaining the organisation. In real terms, Nigeria contributes 22.8% of the entire ECOWAS budget every year, apart from other incidental expenses. In spite of this, it has little or nothing to show in terms of what it has gained from the sub-regional body. The resultant effect is that it is not willing to add new functions by way of assuming more obligations since the ones it has hitherto borne, has not benefited it. When viewed against this background, the non-implementation of Protocols Nigeria has ratified comes out in bold relief.

It is noteworthy that common functions are not necessarily harmony - inducing. They are supposed to generate more understanding, but paradoxically, they also generate ill-feelings. This is demonstrated by the fact that Nigeria's leadership role in ECOWAS has generated a feeling of suspicion among member - states.

With respect to decision-making, decisions taken are geared towards the enhancement of performance of

joint functions which in turn animates new ones. But in doing this, due consideration is given to the benefits which accrued as a result of earlier decisions taken. Thus if earlier decisions did not foster benefits, it is unlikely that more positive ones will be taken. The Protocol on free movement for instance was designed to enhance greater interaction as well as stimulate intra-regional trade. But it seemingly brought about attendant economic and social problems for the country-according to the perception of the leaders. The decision to expel illegal aliens from the country in 1983 and the closure of Nigerian borders in 1984 could therefore be seen in this light.

The foregoing discussion captures essentially the problems of ECOWAS as well as Nigeria's attitude to the body. This underlies over reason for adopting Neo-functionalism as our theoretical framework.

### 1.7 HYPOTHESES

The arguments in this paper are woven around the following hypotheses:

1. Nigeria has failed to implement the Protocols it has ratified because the actors who represent Nigeria in ECOWAS perceive ECOWAS as not serving the interest of Nigeria.

2. The process of decision-making in Nigeria tends to stultify the implementation of ECOWAS protocols.

#### 1.8 METHODS OF RESEARCH

In this work, we relied essentially on two methods of generating data. First we looked at the speeches and papers presented by former Nigerian Heads of state at various ECOWAS fora. The aim will be to find out whether they explain certain actions taken by Nigeria with respect to ECOWAS as well as the decisions that gave Fillip to those actions. We also examined the annual reports of the Executive secretary of ECOWAS which are performance reports of ECOWAS over the years as well as the role played by individual member - states. ECOWAS official journals and bulletins were also used.

Next, we conducted interview at the foreign Affairs ministry which is the coordinating ministry on ECOWAS. The interview was with the official in the ministry responsible for ECOWAS matters. The aim was to find out from him why Nigeria had not implemented the Protocols it had ratified. Since we were not able to get satisfactory answers from the literature we reviewed we presumed that interviewing the officer directly



responsible would help us in resolving the puzzle. In addition interviewing the officer would help in providing some useful insight on how decisions on ECOWAS matters were made and how this process of decision-making affected the implementation of ECOWAS protocols.

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## CHAPTER TWO

This chapter is aimed at providing background information on ECOWAS by tracing the historical origin of ECOWAS as a sub-regional organisation. In doing this, we intend to examine the role Nigeria played in the formation of ECOWAS with a view to finding out whether the initial commitment it showed towards the formation has been sustained, the factors that propelled her to be the prime mover and later developments which has contributed to her vacillation. This will be related to the whole question of why Nigeria has not implemented the protocols it has ratified. Furthermore, we will look at the overall aims of ECOWAS as well as its organisational structure. The purpose is to find out whether there are structural deficiencies which the organisation has that makes it difficult for member-states particularly Nigeria to implement its protocols.

### HISTORICAL EVOLUTION OF ECOWAS AS A REGIONAL ORGANISATION

The processes and factors that propelled the formation of what today is known as ECOWAS were set in motion in the sixties. As a matter of fact, the idea of an economic grouping embracing all the states of West Africa emanated from the United Nations Economic Commission for Africa (ECA).

The establishment of the United Nations Regional Economic Commissions and Regional offices of major UN agencies gave new impetus to regional cooperation in the technical and economic fields on a continental and subcontinental level.<sup>1</sup>

As Adamu Ciroma has observed, "ECA regards economic cooperation as a must for African countries. It argues that the harmonization of industrial development within each sub-region or within a group of countries is the answer to Africa's development problems."<sup>2</sup>

Consequently, the commission at its seventh session in 1965 in Resolution 142 (VII), recommended that member states of the Commission should "set up an early date at the sub-regional level, inter-governmental machinery responsible for the harmonization of economic and social development in the sub-region taking into account the experience of similar institutional arrangements inside and outside Africa."

In October of the same year, the Commission initiated a series of research and conferences on economic integration in West Africa designed to build viable economic groupings within the continent. A Conference on Economic Cooperation in West Africa was held in Niamey, Niger from 10-22 October 1966, at which the project of the association was discussed.<sup>3</sup>

The meeting agreed on the establishment of inter-governmental machinery to carry forward cooperation among the Countries and to set a time table of six months for the acceptance of an instrument of association. It was also recommended that committees on transport and energy be set up.

The second sub-regional meeting of the ECA was held in Accra, Ghana from April 27 - May 4, 1967. At this meeting, the draft Articles of Association of the proposed Economic Community of West Africa were signed by the following countries, Dahomey (Benin Republic), Ghana, Ivory Coast, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra-Leone, Togo and Upper Volta (Burkina Faso).

Subsequently, the Heads of state and Government of Gambia, Ghana, Guinea, Liberia, Mauritania, Nigeria, Senegal and Upper Volta (Burkina Faso) met in Monrovia from April 23-24 1968 and among other things, signed the protocol establishing the West African regional group and incorporating the Articles of Association of the proposed West African Community as an integral part of it. The protocol provided for a conference of Heads of State and Government, a Council of Ministers, an Executive Secretariat and other subsidiary bodies.

The Articles of Association provided for an interim Council of Ministers as a transitional arrangement pending the formal establishment of an Economic Community in West Africa. The interim Council of Ministers was given as its principal task, the drafting of the Treaty governing the Economic Community of West Africa, its submission to member states, and the initiation of action to facilitate the entry into force of the Treaty.

In 1973, at the instance of Nigeria, a meeting of ministers representing fifteen West African Countries was held at Lome, Togo where proposals embodying principles, framework and strategy of economic cooperation was submitted. The proposals were considered and embodied in a draft Treaty which was considered at another Ministerial meeting<sup>which</sup> took place in Lagos just before the summit meeting to finalise the Treaty. Thus on 28th May, 1975, Heads of state and Plenipotentiaries representing fifteen West African States straddling linguistic lines, signed the Treaty of Lagos establishing ECOWAS. Having traced the origin of ECOWAS, we shall go further in the next section to examine Nigeria's role in the formation of ECOWAS.

## 2.1 NIGERIA'S ROLE IN THE FORMATION OF ECOWAS

As we pointed out in the preceding section, the process

of formation of ECOWAS has been going on since the 1960's under the auspices of the Economic Commission for Africa (ECA). To recapitulate, the ECA initiated and organised Conferences between 1963 and 1968 to set the process in motion.

However the process was stalled around 1968 by a combination of factors notably coup d'etat and civil war in some countries in the sub-region. Among these were the coup d'etat in Nigeria in January 1966 and the counter coup of July the same year. This unleashed a set of disturbances that eventually led to a thirty month civil war in 1967. Similarly, there was also a coup d'etat in Ghana in 1966 and Political disturbances in Togo.

The momentum of forming ECOWAS was later reinvigorated in 1972 by Nigeria with Togo playing a supportive role. Nigeria's pioneering role in pushing the process of integration is illuminated by the series of diplomatic shuttles embarked upon by Nigeria's Adebayo Adedeji between 1972 and 1975. Specifically, between July and August 1973, Adedeji led a delegation to the fifteen member countries that now comprise ECOWAS (Cape Verde was not included

in the visits) to sell the idea of economic integration using both coercion and coaxing. Nigeria tried to rally round the countries in the sub-region through aid just as France also made efforts to bring the Franco-phone West African Countries together through aid. In the words of Omotayo Olaniyan, "by 1972, Nigeria emerged as a regional power, partly because of the large revenue accruing to the Country from the sale of Crudi oil."<sup>4</sup> It is noteworthy that in pursuit of its drive towards integration, Nigeria gave monetary gifts to some Countries with promise to give more if they agreed to come together. Three outstanding cases of these gifts as identified by Olaniyan are worthy of mention. "Republic of Benin received ₦1.8million for the construction of a twenty - four kilometre highway linking Port Novo, Benin and Idi - Iroko, Nigeria; Jeunesse de la Revolution Democratique African, one of the main political parties in Guinea, received ₦50,000 and Mali got ₦80,000 towards drought relief."<sup>5</sup>

Of note also is Nigeria's initiation of the establishment of an ECOWAS fund. The setting up of the fund was designed to entice prospective member states to see the need for economic integration. In fact, Nigeria made it clear that for any country to enjoy the benefits of the fund, it has to



be a member of ECOWAS.

In 1973, at the instance of Nigeria, a meeting of Ministers representing fifteen West African Countries was held at Lome, Togo where proposals embodying principles, frame-work and strategy of economic cooperation was submitted. The proposals were considered and embodied in a draft Treaty which was considered at another ministerial meeting held in January 1975. A third ministerial meeting took place in Lagos just before the summit meeting to finalise the Treaty which was subsequently signed by the Heads of State and plenipotentiaries representing fifteen West African states at Lagos on 28th May, 1975.

At this juncture, it is pertinent to evaluate Nigeria's commitment to the establishment of ECOWAS by juxtaposing it with her current attitude to the sub-regional body.

The immediate factors that spurred Nigeria to pursue vigorously the goal of establishing a regional economic bloc in the sub-region could be located essentially though not exclusively in the events associated with the Nigerian Civil war. Indeed, during the civil war, three African countries notably Ivory Coast, Gabon and Tanzania recognised the Republic of Biafra. This action taken by sister African countries caused some disquiet to the Nigerian government

because of the implications it had for the country's territorial security.

It is also noteworthy that France which lent support to Biafra during the war used Cameroun as a conduit for channelling supplies of armaments to the Biafran Republic. In addition, some Biafran soldiers were using Cameroun as a base to launch attacks on Nigeria. This prompted the Nigerian government to enter into a secret Treaty with the government of Cameroun whereby it was agreed that Nigeria will Cede a portion of its territory to Cameroun if the latter stopped providing a base for Biafran soldiers that were launching attack on Nigeria from Southern Camerouns. It is the promise embodied in this Treaty which the Nigerian government tried to repudiate after the civil war that has been the cause of the frequent border clashes between Nigeria and Cameroun. It will not amount to an overstatement if we venture to say that Nigeria acted in desperation when it entered into the agreement.

These, series of events made Nigeria to become more conscious of its security within the sub-region. It realised that its security would better be served by not only establishing good relations with its neighbours but also by having a common organisation that would bring the countries in the

subregion under one umbrella. The paramount consideration of national security, argues Okuboyejo, "dictates that Nigeria should not only be aware of the existence of its neighbours, but should show keen interest in their welfare and be friendly to them without necessarily interfering in their internal affairs".<sup>6</sup> A convenient way of doing this is, "through the economic framework of an enlarged market to which all the neighbours belong."<sup>7</sup>

It was in this way that the idea of a regional economic grouping earlier articulated by ECA was animated by Nigeria. This was pursued consistently until ECOWAS finally came on stream.

However aside from the security consideration, there is yet the economic dimension to the commitment shown by Nigeria in establishing ECOWAS. What emboldened Nigeria to pursue the goal of integration and commit all the resources it did was her relative economic prosperity. The period of the early 1970s when Nigeria was pursuing the goal of establishing ECOWAS with vigour was a period when her economy was afloat. After the 1973 oil crisis, which brought about dramatic increase in the price of oil, the revenue accruing

to Nigeria from oil sales increased substantially. With increased revenue, the pursuit of industrial development as an integral part of overall socio-economic development became an important goal to the country. But Nigeria realised that its goal of industrial development will only come to naught if there are no markets to sell her goods. Related to that, for the country to enjoy the benefits of economies of scale, it needed markets beyond her immediate territories which could only result by encouraging intra-regional trade. In this connection, the formation of a regional economic bloc became an attractive idea and it was prepared to do everything in this regard to bring this about.

With the world oil glut in the early 1980s, the prices of oil fell and the revenue accruing to Nigeria from the sale of Grude oil plummeted. Consequently economic decline set in the country. This reduced the capability for Nigeria to pursue sub-regional goals and interest was now shifted to the immediate domestic problems of the country. The impact of this made Nigeria to re-evaluate her role in ECOWAS in terms of a cost-benefit analysis of placing her contributions side by side with her rewards. It found out that inspite of the huge resources it has committed to

ECOWAS, there was little or nothing to show in terms of what it had gained. Besides her role in ECOWAS was causing disquiet among other member states who were suspicious of Nigeria's motives and saw her as having hegemonic ambitions in the sub-region. Nigeria's interest in the organisation began to wane. The country has continued to support the organisation for it still contributes about 32.8% of the entire ECOWAS budget yearly. However it has become increasingly reluctant in executing ECOWAS programmes. This attitude has found expression in the non-implementation of ECOWAS protocols.

## 2.2 THE AIMS OF ECOWAS

The aims of ECOWAS as spelt out in Article 2(1) of the Treaty includes inter alia:

the promotion of cooperation and development in all fields of economic activity particularly in the fields of industry, transport, telecommunications, energy, agriculture, natural resources, commerce, monetary and financial questions and in social and cultural matters for the purpose of raising the standard of living of its peoples, of increasing and maintaining economic stability, of fostering closer relations among its members and of contributing to the progress and development of the African continent.<sup>8</sup>

ECOWAS was set up to act as a collective forum for addressing the socio-economic problems and developmental

priorities of the sub-region. The rationale behind the formation is predicated on three important goals of public policy.<sup>9</sup>

The first goal is directed at ensuring success in the struggle against domination and subjugation by external forces. To ensure success in the struggle, small states need to cooperate as much as possible to enable them to effectively resist external domination and oppression. Resistance will only become effective if the economies of the sub-region are strong and reasonably independent of support from outside the sub-region.

The second goal has to do with the alleviation and eventual elimination of poverty in the sub-region. The achievement of this goal is also dependent on a strong and buoyant economy.

The third relates to the national economic development limitations. The pattern of development in West Africa was isolation - based in several instances and small national markets.

The above situation has placed West African countries in a development process largely geared towards meeting foreign needs and thus subjecting their economies to foreign

decisions. ECOWAS tends to redress this pattern of development. Specifically Article 32 of the Lagos Treaty calls upon the Council of Ministers to take steps to reduce gradually the Community's economic dependence on the outside world.

The key for economic integration in West Africa, Ezenwe has argued, rests on the potential for the exploitation of internal and external economies of scale, especially in manufacturing activities"<sup>10</sup> Integration will in his view, "affect the rate of growth of Gross National product of the participating countries, partly in the form of a more efficient scale of operation by existing enterprises, given the current level of under-utilisation of industrial capacity in the region but primarily from a greater rate of investment in new industries."<sup>11</sup>

ECOWAS aims at stimulating and encouraging trade among member - countries in the sub-region. The long-run impact of this regional trading arrangement however is not to decrease trade with the rest of the world. Rather the objective is to enlarge and redirect the pattern of trade in such a way that it will accord to the economic and development priorities of the sub-region.

Another important aim of ECOWAS is the achievement of self-reliance within the sub-region. The major objectives of the ECOWAS strategy of self-reliance are therefore to avoid dependence and to promote development. This strategy involves a partial disengagement of the West African countries from existing patterns of dominant economic and political relationships which prevail in the international system. The disengagement process is expected to induce or accompany a restructuring of basic international and domestic relations. A crucial aspect of the restructuring will entail increasing both the frequency and magnitude of economic exchanges among ECOWAS member states including increased trade, improved communication links, tariff reductions, industrial planning, technological acquisition, expansion of educational and technical exchanges, and the exploitation of natural resources on a regional basis.

ECOWAS aims at resolving the collective development dilemmas of the sub-region. But some of the principles embodied in this strategy tend to be perceived by member-states as negating their national economic priorities. They



do recognize the fact that their problems could only be meaningfully addressed in a collective manner but none is willing to assume obligations which in its estimation will be detrimental to its national economy.

Besides the external linkage of their economies to centres of world capitalism tend to turn their attention away from sub-regional goals. Member-states want to integrate but at the same time they are reluctant to sever the links they have with extra-regional powers particularly the advanced industrial countries. ECOWAS aims at de-emphasizing this relationship and encouraging greater interaction in the sub-region. This greater interaction through free movement of people and all factors of production is expected to ultimately bring about economic development. However the sacrifice it calls for tends to complicate the economic problems of member - states by way of revenue losses. Consequently, they become reluctant to carry out the organisations goals. The non-implementation of protocols results from this.

To help it achieve its goals, ECOWAS set up certain institutions. It is to this that we shall now turn.

### 2.3 THE ORGANISATIONAL STRUCTURE OF ECOWAS

Almost all organisations, national sub-regional as well as regional organisations have organs or institutions designed to carry out specific tasks of the organisation. Generally the process of integration necessitates the creation of suitable institutions to deal with the complex problem of linking the economic destinies of several nations.<sup>12</sup>

Article 4 of the Treaty of ECOWAS provides for the following institutions:

1. The Authority of Heads of state and Government
2. The Council of Ministers;
3. The Executive Secretariat;
4. The Tribunal of the Community; and
5. The following technical and specialised commissions:
  - the Trade, Customs, Immigration, Monetary and payments Commission;
  - the Industry, Agriculture and Natural Resources Commission;
  - the Transport, Telecommunications and Energy Commission
  - the Social and Cultural Affairs Commission; andsuch other commissions or bodies as may be established

by the Authority of Heads of state and Government or are established or provided for by this Treaty.

#### AUTHORITY OF HEDS OF STATE AND GOVERNMENT

Structurally, the Authority of Heads of State and Government is the principal governing institution of the Community (Art.5). As the ultimate executive organ, it is responsible for, and have the general direction and control of the performance of the executive functions of the community for the progressive development of the community and the achievement of its aims. The authority shall meet once in a year and its decisions and directions are binding on all institutions of the community.

#### COUNCIL OF MINISTERS

The Council of Ministers consists of two representatives of each member state. Its responsibility includes inter alia the making of recommendations to the Authority on matters of policy aimed at the efficient and harmonious functioning and development of the community. It is also empowered to give directions to all subordinate institutions of the community. However, their proposals to the Authority regarding matters of community policy are recommendatory in character. This implies that the Authority is not under

any obligation to accept them.

The council of Ministers shall meet twice a year and one of such meetings shall be held immediately preceding the annual meeting of the Authority. Extraordinary meetings of the council of Ministers may be convened as and when necessary. The decisions and directions of the council shall be binding on all subordinate institutions of the community.

#### EXECUTIVE SECRETARIAT

Next in the hierarchy is the executive secretariat which is headed by the Executive secretary. He shall be appointed by the Authority to serve in such office for a term of four (4) years at first instance and be eligible for reappointment for another term of four (4) years. The executive secretary is the principal executive officer of the community. He is assisted by two Deputy Executive Secretaries, who are appointed by the Council of Ministers. The Executive secretary is responsible for the day-to-day administration of the community and all its institutions. It is his responsibility to submit a report of activities to all sessions of the council of Ministers and all meetings of the Authority. He can only be removed from

office by the Authority upon the recommendation of the Council of Ministers.

#### TECHNICAL AND SPECIALISED COMMISSIONS

Each Commission consists of representatives designated, one each by the member states. The representatives are assisted by advisers. Each Commission submits from time to time reports and recommendations through the Executive Secretary to the Council of Ministers either on its own initiative or upon the request of the Council of Ministers or the Executive secretary. Each Commission meets as often as necessary or as directed by the Council of Ministers for the proper discharge of its functions.

#### TRIBUNAL OF THE COMMUNITY

The Tribunal of the community is responsible for ensuring the observance of law and justice in the interpretation of the provisions of the Treaty. It is also responsible for settling such disputes as may be referred to it in accordance with Article 56 of the Treaty - The Article states that "any dispute that may arise among the Member - States regarding the interpretation or application of the Treaty shall be amicably settled by direct agreement. In the event of failure to settle such disputes, the matter

may be referred to the Tribunal of the Community by a party to such disputes and the decision of the Tribunal shall be final."

In addition to these institutions of the Community, Article 10 of the Treaty also provides for an External Auditor who shall be appointed and removed by the Authority on the recommendation of the Council of Ministers. Similarly the Authority of Heads of state and Government at its sixth annual summit held in Free-town, Sierra-Leone in May 1981 approved the establishment of two more institutions namely the Defence Council and the Defence Commission.

A remarkable point to underline with respect to the organisational structure of ECOWAS is that the locus of supranational authority rests with the Authority of Heads of State and Government. It should be noted that these Heads of state and Government are also the wielders of supreme power in their respective territories. Consequently, the Heads of State and Government find it difficult to look beyond their immediate national interests and the desire to preserve the independence of sovereign action in the conduct of their foreign relations. This inability

to transcend the dictates of national sovereignty impedes the pursuit of the community's goals. As Udokango observed, "Supranational authority, regardless of institutional forms is meaningless unless those entrusted with it are willing and able to exercise it."<sup>13</sup>

Another defect of the organisational structure which has effect on the implementation of ECOWAS protocols is that ECOWAS has no organ for enforcing its decisions. Implementation of ECOWAS programmes are left to the discretion of individual member states. Related to that is the fact that while the decisions of the Authority of Heads of state and Government shall be binding on all institutions of the Community, it is not binding on the member states.

Besides, there is nobody that is charged with the responsibility of monitoring the implementation of ECOWAS programmes. This therefore results in a gulf between decisions and actions.

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### CHAPTER THREE

#### AN EXAMINATION OF SOME ECOWAS PROTOCOLS

The specific goals and objectives which member - states of ECOWAS want to realize as well as the guidelines to be followed in accomplishing these tasks are embodied in the Community's Protocols. Protocols are the legal instruments formulated for implementing the community's decisions. As stated earlier in chapter one, there are two of the Community's Protocols we are concerned with in this work. To reiterate, they are:

1. The Protocol relating to the free movement of persons, right of residence and establishment and
2. The Protocol relating to the definition of the concept of products originating from member-states of the ECOWAS which is aimed at trade liberalization.

Generally speaking, a Protocol is a legal document and is a form of Treaty. But "It signifies an agreement that is less formal than a Treaty."<sup>1</sup>... Two kinds of Protocols as distinguished by J.G. Starke can be identified. First,

It may be an instrument subsidiary to a convention and drawn up by the same negotiators ... Such a Protocol deals with ancillary matters such as the interpretation of particular clauses of the convention,

any supplementary provisions of a minor character, formal clauses not inserted in the convention, or reservations by particular signatory states.<sup>2</sup>

In this first sense, ratification of a convention will normally IPSO facto involve ratification of the Protocol.

In the second sense, "it is an ancillary instrument to a convention, but of an independent character and subject to independent ratification."<sup>3</sup>

It is important to note that the substance of ECOWAS Protocols are designed in the second manner discussed above. This is because the community's Protocols are formulated and ratified independently as they do not constitute an integral part of the ECOWAS <sup>Treaty.</sup> It has to be remarked however that there are five Protocols that were annexed to the Treaty of ECOWAS. They are

1. Protocol relating to the definition of the concept of products originating from member - states of the ECOWAS;
2. Protocol relating to the re-exportation within the ECOWAS of goods imported from third countries;
3. Protocol on the assessment of loss of revenue by member- states;
4. Protocol relating to the fund for co-operation,

compensation and development of ECOWAS; and

5. Protocol relating to the contributions by member - states to the Budget of the ECOWAS.

Although the aforementioned protocols were annexed to the ECOWAS Treaty, they were ratified independently of the Treaty and this was not done simultaneously by all the member - states. This helps to shed more light on the independent character of protocols.

The ECOWAS Treaty, Article 62(1) provides that for any of the community's Protocol to come into force definitively, it has to be ratified by a minimum of seven member-states. At this juncture, we shall now proceed to examine the two Protocols that are the focus of our study.

### 3.1 PROTOCOL RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF RESIDENCE AND ESTABLISHMENT

The above protocol was signed in Dakar, Senegal on 29th May 1979. It entered into force definitively in member - states on 5th June 1980 and the five-year Implementation period of the first phase relating to free movement of persons and abolition of compulsory visa before entry into the territory of a member - state for a ninety (90) day period elapsed on 4th June 1985.

The Protocol shall be implemented in three successive phases: the first phase corresponds to the right of entry and abolition of visas. During the five years scheduled for this phase, citizens of the community may enter the territory of another member - state without any entry visa for a visit of not more than ninety (90) days. However any visitor must be in possession of a valid travel document and international vaccination card. The second phase of the Protocol which entails the granting of the right of residence in any member state to all ECOWAS citizens was initially scheduled to take off in 1985. But a supplementary Protocol was later formulated which changed the implementation date to 1986. Although it was envisaged that the deadline for implementation shall be 4th June 1990, It was in May 1989 that minimum number of ratifications required for the Protocol to enter into force definitively was gotten. It therefore came into force in May 1989, four years behind schedule. The third phase relates to the right of establishment of a business in another member country. It was signed in May 1990 but is yet to enter into force because up to seven member states have not ratified it.

The salient provisions of the Protocol are as follows: Article 2(1) (2) (3) Confers on the Community Citizens, "the right to enter, reside and establish in the territory of member - states." "This right of entry, residence and establishment shall be progressively established in the course of a maximum transitional period of fifteen (15) years from the definitive entry into force of this Protocol by abolishing all other obstacles to free movement of persons and the right of residence and establishment." Moreover, "the right of entry, residence and establishment shall be accomplished in three successive phases." We have already discussed these phases.

Although visa requirement is waived for community citizens, any citizen of the community who wishes to enter the territory of any other member - state shall be required to possess valid travel documents and international health certificate. Besides, member - states reserve the right to refuse admission into their territory any community citizen who comes within the category of inadmissible Immigrants under its laws. This provision is clearly stated in Article 4 of the protocol.

In order to facilitate the movement of persons

transported in private or commercial vehicles, Article 5 of the protocol provides that "a private vehicle registered in the territory of a member - state may enter the territory of another member - state and remain there for a period not exceeding ninety (90) days upon the presentation to the competent authority of that member - state the following documents:

- i) Valid driving license
- ii) matriculation certificate (ownership card ) or log book
- iii) Insurance policy recognized by member - states
- iv) International customs carnet recognized within the community" With respect to commercial vehicles, there is a prohibition on them from engaging in any commercial activities within the territory of the member - state entered during the period of fifteen (15) days.

Adequate provision is also made in the Protocol to avoid the confusion that may arise with respect to determining what constitutes a valid travel document. Thus Article 6 states that, "each member - state shall deposit at the Executive secretariat specimen of travel documents

defined in Article 1 of the Protocol with a view to communicating them to all member - states."

The ambiguity or dispute that may arise among member - states regarding the interpretation or application of the Protocol is taken care of in Article 7. It provides that such a dispute shall be amicably settled by direct agreement. However if this fails, the matter shall be referred to the tribunal of the Community whose decision shall be final.

The Protocol took cognizance of the fact that some ECOWAS citizens were already in residence in other member states before the Protocol came into effect. Thus Article 10 States that "the provision of this protocol shall not operate to the prejudice of citizens of the community who are already in residence and establishment in a member state provided they comply with the laws in general and in particular the immigration laws of that member - state."

The Protocol also has provisions aimed at curtailing the indiscriminate expulsion of community citizens by their host countries. This is the hallmark of Article 11. It stipulates among other things that a decision to expel any citizen of the Community from the territory of a



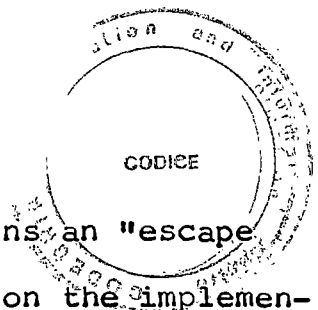
member - state shall be notified to the citizen concerned as well as the government of which he is a citizen and the Executive secretary of ECOWAS. In addition, the expenses incurred in the expulsion of a citizen shall be borne by the member - state which expels him. Further, the security of the citizen concerned as well as that of his family shall be guaranteed and his property protected and returned to him without prejudice to his obligations to third party. The same rules apply to repatriation of a community citizen. However, in case of repatriation, the cost shall be borne by the citizen himself or in the event that he is unable to do so, by the country of which he is a citizen.

A supplementary Protocol amending and complementing the provisions of Article 7 of the Protocol on free movement, right of residence and establishment was later formulated and signed at Ouagadougou on 30th June 1989. The amended article states as follows:

1. "Any dispute that may arise among member states regarding the interpretation and application of this Protocol shall be amicably settled by direct agreement."

2. "In the event of failure to settle such a dispute amicably, the chairman of the Authority of Heads of state and Government may upon receiving a complaint from a member - state of the community of systematic or serious violations of the provisions of the protocols on free movement of persons, the right of residence and establishment on the part of another member-state, request the Executive Secretary to urgently despatch to the member-states concerned a fact finding mission comprising officials from at least three member - states acceptable to the parties concerned, and officials of the Executive Secretariat to investigate the complaint. A report shall be compiled by the fact finding mission and submitted by the Executive secretary to the chairman of the Authority of Heads of state and Government, and to the Government of all member-states with a view to finding appropriate solutions to the problems identified".

An analysis of the provisions of the Protocol shows that it offers member - states some relative freedom of action in implementing the Protocol. Of special note



is Article 4 of the Protocol which contains an "escape clause". This has some negative impact on the implementation of the Protocol. A member - state can always cash in on the provisions of this Article if it wants to free itself of the responsibility which the Protocol demands from her. By invoking the provisions of this Article, It can refuse admission into its territory a category of Community citizens whom it feels it does not want. In fact a member - state can draw a distinction as to the kind of Community Citizens it would admit in its territory. Based on this also, it can claim that some community citizens resident in its territory fall within the category of inadmissible citizens under its law. This will then serve as a justification for expelling them. Nigeria's attitude with respect to the second phase of the Protocol as well as the 1983 expulsion of illegal aliens could be seen in this light.

Even the whole question of facilitating movement of persons which under Article 5(1) permits a private vehicle registered in the territory of another member - state to remain there for a period not exceeding 90 days upon the presentation of the following documents to the competent authority of that member - state

- i) Valid driving license;
- ii) Matriculation Certificate (Ownership Card) or Log Book;
- iii) Insurance policy recognised by member states;
- iv) International customs carnet recognised within the Community), creates some problems. Some car snatchers have taken undue advantage of this provision as they steal cars in one member-state and dispose of them in another member - state. Where the robbers are not in possession of the genuine documents mentioned above, they quickly forge them and by bribing customs and immigration officials at border check-points, they are granted free passage across the border. This incidence has assumed such a great dimension that the assistance of the international police (INTERPOL) is now solicited to recover stolen cars which are ferried across the border of member - states.

Although member - states undertake under Article 9 to cooperate among themselves by exchanging information such matters that are likely to affect the implementation of the protocol, such exchange of information rarely takes place. Indeed, it could be argued that such matters that

may affect the implementation of the protocol usually border on the pursuit of domestic interests by member states. If they are to communicate such matters, the tendency is that ECOWAS might pressurize them to play down their short-term domestic interest for the greater long - term interest of the sub-region. Thus, instead of communicating such matters, they go on to actualise their domestic interests; thereby violating the protocol.

The provisions of Article 10 also has some implications for the implementation of the Protocol. It states that, "the provisions of the protocol shall not operate to the prejudice of citizens of the community who are already in residence so long as they comply with the laws in general and in particular the immigration laws of that member state." We know that laws are not immutable. In addition, the right of a member state to determine its laws is regarded as sacrosanct since each member state is sovereign. Arising from that, a state which for certain reasons does not want to implement the protocol can make or amend its law in such a way that the privileges enjoyed by the community citizens already in residence will be

tampered with.

It is important also to add that the settlement of disputes arising from the interpretation and application of the Protocol is a very cumbersome procedure.

The freedom of action which the protocol guarantees member - states is further brought to light in the supplementary protocol on the code of conduct for the implementation of the protocol on the Free movement of persons, the Right of Residence and Establishment which was signed in July 1985. Article 5(2) "States that the regularisation of the status of illegal immigrants shall be based among other things on

- (a) the existence of an ample political consensus making regularisation of the stay desirable or necessary
- (b) the acceptability of the immigrants by a large section of the society.

This makes the whole issue a political question subject to the whims and caprices of member states.

Likewise, under the omnibus term of internal

security a member-state can justify its action of closing its borders regardless of its real reasons for doing so. In such instances the only thing which Article 8(2) requires it to do is to inform the Executive secretariat, and the other member states, if necessary even after the act.

In spite of these flaws we have identified, the free movement protocol appears very laudable. But there is yet another dimension of the problems attendant on it, which become manifest in the course of implementation.

First, the implementation of the Protocol makes it difficult for member-states to mobilize their resources for national development since citizens of member-states can flood any country during economic prosperity and leave during periods of economic adversity. The influx of ECOWAS citizens into Nigeria during the days of the oil boom helps to illustrate this point.

Related to the above point is that, it is detrimental to member-states because it does not permit each member to determine the types of human skills and

resources that are being lost through emigration and immigration.

Finally the Protocol makes the borders of member-states porous to community citizens. This in turn creates problems for the immigration statistics of these countries.

Having examined the Protocol on free movement, we shall now turn to the protocol on trade liberalization.

3.2 PROTOCOL RELATING TO THE DEFINITION OF THE CONCEPT OF PRODUCTS ORIGINATING FROM MEMBER - STATES OF ECOWAS

The above protocol is one of the first five protocols that was originally annexed to the Treaty of ECOWAS. It is essentially aimed at trade liberalization within the community through the elimination of tariff and non-tariff barriers to the free movement of goods within the ECOWAS sub-region. The protocol was signed at Lome, Togo on 5th November 1976. Trade liberalization on unprocessed agricultural products and handicraft became effective in May 1981, while experimental trade liberalization on selected industrial products originating from member states took off on



January 1st 1990.

It is noteworthy, that the trade liberalization scheme is designed to be accomplished in stages. First, elimination of tariff barriers on unprocessed agricultural products and handicrafts was begun in 1981 and was expected to be completed in 1989. To qualify for the scheme, they must be accompanied by Certificates of origin attesting that the product could be approved to benefit from the scheme if it is from an enterprise of which indigenous equity participation is at least 40% with 60% of local raw materials in put and at least 35% local value - added.

Next, elimination of non-tariff barriers on unprocessed products. This was begun in 1981 and was expected to be completed in 1985.

Further, there is the abolition of tariff on a list of priority non factory products on the basis of 25% annual reduction. This should be done in four years, 1983 to 1987.

Moreover, there is the abolition of tariff on a list of non-priority, non factory products. This should be done on the basis of 16.66% annual reduction in six years,

1983-1989

The Protocol listed a wide range of products which shall be accepted as originating in Member- states for purposes of trade liberalization. These products shall qualify for the scheme, if they are wholly produced in the member-states. They include the following:

1. Mineral products extracted from the ground or subsoil or sea bed of the member - states;
2. Vegetable products harvested within the member - states;
3. Live animals born and or raised within the member-states;
4. Products obtained within the member - states from live animals;
5. Products obtained by hunting or fishing conducted within the member - states;
6. Products obtained from the sea and from rivers and lakes within the member - states by a vessel of a member - state;
7. Products manufactured in a factory of a member-state exclusively from the products referred to in (f) above;

8. Used articles fit only for the recovery of materials, provided that such articles have been collected from users within the member - states;
9. Scraps and waste resulting from manufacturing operation within the member - states;
10. Materials used in producing goods within the member state but containing no element imported from outside the member - states or of undetermined origin.

The above products itemised are as contained in Article 5 of the Protocol.

With respect to item j above, Article 2(c) of the Protocol stipulates that, "If the goods have been produced from material of a foreign or undetermined origin and having received in the process of production a value-added of at least 35% of the f.o.b price of the finished product, they shall qualify to be admitted under the trade liberalization scheme."

Article 3(1) further stipulates that evidence of community origin shall further be sub-stantiated by a certificate of origin issued by the competent authority designated for that purpose by the exporting member state where the goods have been produced and counter-signed by the customs department of that member - state.

The Certificate should indicate therein the percentage and origin of the materials used and/or the percentage of value-added as the case may be.

A fundamental point worth noting is that a Certificate of origin does not automatically create a free passage for goods to the importing country. This is because the importing country reserves the right to make further verifications of the claims made in the certificate of origin in case of doubt. This is succinctly stated in Article 3(2).

Indeed, determining the origin of goods involves much more than mere declaration in a Certificate of origin. It is not just the point of departure of a commodity that confers community origin, for as contained in Article 4, there are processes and operations which shall be considered as insufficient to support a claim that goods originate from a member - state. They are as follows:

- a. Packing, bottling, placing in flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- b. Operations to ensure that preservation of Merchandise in good condition during transportation and storage

such as ventilation, spreading out, drying, freezing, placing in brine, sulphur dioxide or other aqueous solutions, removal of damaged parts and similar operations;

- c. Changes of packing and breaking up or assembly of consignments;
- d. Simple assembly of parts of a product to constitute a complete product;
- e. Making or labelling for distinguishing products or their packages;
- f. Simple operations consisting of removal of dust sifting or screening, sorting, classifying, matching including the marking up of sets of goods, washing, painting or cutting up.

Of special significance is that mixing of products does not confer origin. Arising from that, origin shall not be conferred on any product resulting from the mixing together of goods which would qualify as originating in the member states with goods which would not so qualify, if the characteristics of the product as a whole are not essentially different from characteristics of the goods which have been mixed. This is stated in Article 8(1)

Another important element given attention by the Protocol has to do with determining the value of materials imported from a third country but used in the process of production in a member country. This is treated in Article 6(a) and (b) which provides that the value of such materials should be their C.I.F (cost, insurance and freight) value accepted by the customs authorities on clearance for home use, or on temporary admission, at the time of last importation into the member state where they were used in a process of production, less the amount of transport costs incurred in transit through other member states. However if the value of any materials imported from outside the member states cannot be determined in accordance with C.I.F, their value shall be the earliest ascertainable price paid for them in the member state where they were used in a process of production.

The Protocol envisaged that cases might arise whereby it will be difficult to separate materials of similar character but different origin used in the production of goods. Consequently Article 7(1) provides that, "such segregation may be replaced by an appropriate

accounting system which ensures that no more goods are deemed to originate in the member - states than would have been the case if the producer has been able physically to segregate the materials." It added in paragraph 2 that "any such accounting system shall conform to such conditions as may be agreed upon by the council in order to ensure that adequate control measures will be applied."

To ensure that the provisions of the protocol are adhered to, member - states undertake to introduce legislation, making such provision as may be necessary for penalties arising from false claims that goods should be accepted as originating from the member - states. In case of such an untrue claim, the matter shall immediately be brought to the attention of the exporting member state from which the claim is made so that action can be taken (Art. 13(1)(2)).

The responsibility for making regulations concerning proof and the verification of proof of goods originating from member - states is entrusted on the customs cooperation council.

At the 15th summit of the Authority of Heads of state and Government of ECOWAS held at Dakar, Senegal from July 25-27th 1992, the leaders adopted some modifications to the trade liberalization scheme. First is the adoption of 25% for indigenous participation in the equity capital of enterprises producing industrial goods for intra Community trade. Secondly, the scheme is also to be simplified by abolishing the categorization of industrial products on priority and non-priority basis.

At this juncture, it is pertinent to make the point that two principal objectives which accompany any economic integration are, the elimination of tariff and non-tariff barriers on goods traded among member countries as well as the imposition of a common external tariff against goods from third countries.

A cursory look at the provisions of the protocol on trade liberalization suggests seemingly stiff regulations with respect to defining what constitute goods of community origin. Nevertheless, they are designed to ensure that the goods from third countries do not enjoy this preferential trade arrangements. If the



guidelines are not strictly enforced, the tendency will be for goods from third countries to be treated as community goods. When this happens, the gains which are supposed to be derived from the scheme, will be cancelled out.

The trade liberalization scheme seems to be predicated on the assumption that states will willingly sacrifice their short term material interests for the greater interest of the sub-region as a whole. Although it is generally agreed that trade liberalization within a grouping maximises economic efficiency from the groups point of view by comparison to a non-trade situation, it is also true that some countries or groups within each member country will be hurt by the dismantling of trade barriers despite the fact that the gain is larger for the members of the group as a whole.

Practical experience with economic integration in various parts of the underdeveloped world has shown that the mechanical application of free-trade area and customs union rules raises a very serious problem which may hamper the integration scheme. This problem arises from the unequal level of development of the

countries or regions forming an integrated area. To put it simply, one can say that in such an area, the less industrialized partner tends to subsidize the more industrialized by buying its manufactured products above world market prices, whereas in general; It has to sell its raw materials and food stuffs at world market-prices outside and even inside the integrated area.

Admittedly, the trade liberalization scheme of ECOWAS seems to have an "equalizing element,"<sup>4</sup> for it provides for compensation for losses sustained by any member state due to the abolition of tariffs. But bearing in mind that member states would be more inclined to look for quick rewards rather than take a long-term view of the benefits of cooperation, the tendency to cheat by falsifying figures on intra-community transactions in order to qualify for compensation would become more pronounced.

In relation to the above point, although issues of false claims can be brought to the notice of the exporting member - state, so that action can be taken this is not strong enough to deter member states from cheating.

What is more, a member state is under<sup>no</sup> obligation to institute or continue court proceedings against a defaulting exporter state without the permission of the importing member state.

Another remarkable point about the Protocol, is that there is a disparity in the elimination of tariff and non-tariff barriers. Article 1 of the Decision of the Authority of Heads of State and Government relating to trade liberalization on industrial products which was signed at Lome on 28th May, 1980, states that, "Trade liberalization on industrial products and elimination of tariff barriers shall be governed by the following schedule:

Products of Community Enterprises

- a) Such products shall be liberalized immediately they are produced and they shall have free access to the Community market duty free
- b) Priority Industrial products to enjoy accelerated liberalization."

On the contrary Article II which is on the Elimination of Non-Tariff Barriers states, "for the purposes of eliminating non-tariff barriers, the following scheme

shall apply:

1. All member states shall be treated on the same level
2. The method of liberalization shall be left to the discretion of member states
3. Liberalization shall be undertaken at a faster rate than tariff barriers and shall be eliminated over a period of four years commencing from 28th May, 1981.

While paragraph three states that liberalization shall be undertaken at a faster rate than tariff barriers, the same Article under paragraph two leaves the method of liberalization to the discretion of member states. Knowing fully well that Member States are bound to apply different methods of liberalization, based on suitability to their domestic interests, efforts to accelerate liberalization will come to naught.

On the whole, the two ECOWAS protocols we have examined are sufficiently flexible that it allows member states a wide range of choice. Their provisions look recommendatory rather than mandatory. Bearing in mind that ECOWAS has no mechanisms for enforcing its decisions, there is nothing that compels member states

to comply with the provisions of the protocol.  
Even if there were coercive institutions for enforcing decisions, they might still be rendered ineffective since any action contemplated against a member - state will bring in the question of state sovereignty. The whole issue of integration is therefore a matter of will rather than power.

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NOTES

1. J.G. Starke Introduction to International Law  
Ninth Edition (London: Butterworths, 1984) P. 418
2. Ibid
3. Ibid
4. Aurthur Davies "Cost - benefit analysis within  
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CHAPTER FOURNIGERIA'S IMPLEMENTATION OF ECOWAS PROTOCOLS

While Nigeria and other member - states of ECOWAS do recognize the prospects and benefits that can be derived from integration, they are nevertheless extremely cautious in negotiating binding commitments. Thus while the decisions and directions of the Authority of Heads of State and Government "shall be binding on all institutions" of the community, they cannot be immediately binding on Member - State themselves.<sup>1</sup>

At the rhetorical level and judged by the proclamations which Nigeria's past and present Heads of State do make at various ECOWAS fora, the point could easily be made that Nigeria is totally committed to the implementation of ECOWAS Protocols. However, judged by their actions, actions which sometimes, but not always, are impelled by the imperatives of national goals and objectives, we find out that Nigeria has not implemented all the protocols it has ratified. It is interesting to note that Nigeria has ratified all but one, of the community's twenty seven protocols. The one it has

not ratified is the protocol on community court of justice signed at Abuja on 6th July 1991.

It is one thing to ratify a protocol, while its implementation is a totally different ball game. Thus, determination to implement a protocol whose first step is demonstrated by its ratification, could only become meaningful when this determination finds practical expressions in the actions of states who have so consented to its implementation. Nigeria is not however the only member - country of ECOWAS that is faced with this ratification - implementation dilemma. In this regard, an observation made by James Mayall with respect to the foreign policy of most states bears relevance here. He stated:

there is in the foreign policy of most states, a tension between on the one hand, formal policy objectives and the rhetoric in which these are habitually projected, and on the other, the energy with which they are pursued in practise.<sup>2</sup>

In this chapter, we are going to focus attention on how Nigeria has implemented two of the protocols it has ratified. These are:

- a) the protocol on free Movement of Persons, Right of Residence and Establishment and



b) the protocol on the Definition of the concept of Products originating from member - states. As a corollary, we shall also examine how the processes of decision-making in Nigeria affect the implementation of ECOWAS protocols.

4.1 THE ECOWAS PROTOCOL ON FREE MOVEMENT OF PERSONS, RIGHT OF RESIDENCE AND ESTABLISHMENT AND THE 1983 EXPULSION OF ILLEGAL ALIENS

The protocol is to be implemented in three successive stages. The first stage which entails right of entry and abolition of visa to community citizens entered into force definitively in member-states in 1980. The second stage which deals with the granting of the right of residence in any member - state to all ECOWAS citizens which was originally scheduled to take off in June 1985, but later postponed to 1986, eventually came into force definitively in May 1989, three years behind schedule. The third phase - right of establishment, signed in May 1990 is yet to come into force because it has not received the ratification of the requisite number of seven member - states. The provisions of the Protocol were discussed earlier in chapter three.

In assessing Nigeria's implementation of the Protocol, several options could be adopted. The first

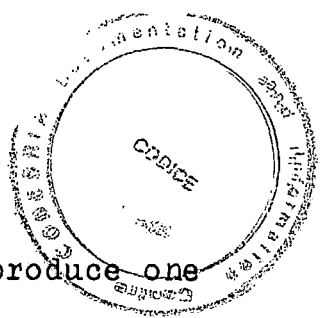
is to adopt a legal approach and show the extent to which the country had complied with or violated the provisions of the protocol as contained in the first phase. A second approach is a political one which attempts to show the extent to which policy declarations on the protocol have been matched by concrete measures to ensure the success of implementation of the protocol. Finally, the moral and sociological implications of implementing the protocol may be addressed.<sup>3</sup> We shall combine these approaches in order to gain a full appreciation of the matter.

From a strictly legal point of view, Nigeria has done well in the implementation of the protocol on free movement especially with respect to the first phase. Nigeria has abolished visa requirements for ECOWAS citizens entering the country. In this regard, it could be said that the first phase of the protocol has been accomplished. Moreover, prior to and even up to the entry into force of the protocol, Nigeria had granted entry to a large number of West Africans most of who were compelled by economic difficulties to leave their countries.

However, some of the immigrants came into the country without valid travelling documents. Related to that, some of the community citizens granted entry into Nigeria stayed longer than the ninety days stipulated in Article 3(2) of the protocol.

In the area of customs and immigration cooperation which is designed to facilitate the implementation of the protocol, the Nigerian authorities have created separate sections/desks in all Nigerian entry ports for ECOWAS citizens. Nigeria's entry|departure forms have been simplified and harmonised with other member - countries in conformity with ECOWAS decision. Nigeria's customs department has adopted the harmonised customs nomenclature system and has partially computerised the departments operations for greater efficiency.

Although Nigeria is currently implementing this protocol, a recent study conducted by the information directorate of ECOWAS shows that problems are still being encountered as a result of the "human factor."<sup>4</sup> It is true that entry is now allowed without visa but travellers especially at land borders, lose a lot of time in transit owing to, "cumbersome procedures; harrasment at points



of entry; possible extortion, requests to produce one form of document or another and demand for all kinds of levy still abound."<sup>5</sup> There is need therefore to adopt measures to reduce congestion at the border posts and facilitate the speedy processing of documents for people and vehicles.

The second phase of the protocol grants ECOWAS citizens the right to reside in the territory of any member - state. Such a stay shall be for a renewable period of ninety days during which period the citizen can take up employment and apply for a residence permit. If within the period of ninety days, he is unable to secure a job, he could request for an extension of another ninety days. However if at the expiration of the second period of ninety days, he still fails to secure a job, he shall be repatriated.

To aid the implementation of this protocol, all member - states of ECOWAS are required to print and issue approved ECOWAS travel certificates for their citizens. This can be used in the place of passport to facilitate movement in the sub-region. On her own

part, Nigeria's immigration department, in conjunction with the Nigerian security printing and minting company, has completed the printing of ECOWAS travel certificates. The certificate which supplements international passport in West Africa, is now being issued to Nigerians by the Immigration department.

With respect to implementation, Nigeria has not implemented this protocol. The position it has adopted is that the protocol does not provide unrestricted movement to unskilled workers. Rather, it argues that there has to be guarantee that there are job opportunities in the country being visited by such ECOWAS citizens. This official government position, was made public on 8th of August 1986 by Alhaji S.A. Dange,<sup>6</sup> the then assistant director of immigration in an interview he granted Daily Times, a Nigerian newspaper. He explained that the protocol provides for employment of citizens of member - states but pointed out that those eligible should be skilled workers. Drivers, stewards, gardeners and women of easy virtue were not covered by the provisions of the protocol, according to him.

To put matters in proper perspective, it is pertinent to note that nowhere in the Treaty of ECOWAS nor in the protocol on free movement was a distinction made as to the category of community citizens that should be granted right of entry, residence and employment. In fact Article 27(2) of the Treaty of ECOWAS states as follows: "Member states shall, by agreements with each other, exempt community citizens from holding visitors' visas and residence permits and allow them to work and undertake commercial and industrial activities within their territories." The only provision that gives states a loophole is the provisions of Article 4 of the protocol which states that "states shall reserve the right to refuse admission into their territory any community citizen who comes within the category of inadmissible immigrants under its laws." Thus Nigeria was only trying to give the protocol the interpretation which suited it.

This position adopted by Nigeria was to stem the influx of aliens into the country. The decision was taken ostensibly on grounds of economic interests.

Nigeria has been trying to extricate its economy from the abyss it has fallen into. In doing this, it had adopted a lot of measures among which is the structural Adjustment Programme. It was therefore in no mood to allow the influx of aliens into the country since this would in its estimation compound its economic problems and it is by implementing this second phase of the protocol that the influx will come about.

However, the facts do not indicate that the alien problem really relate to government's desire to solve Nigeria's economic problems. The linking of the alien issue with the economic problem by the government was contrived as a tactic and face - saving measure. The truth of the matter, is that government had come under severe criticism at home for its inability to tackle the country's economic problem. The criticism was such that it was creating credibility and legitimacy problems for the government. It therefore turned to the alien question just to delude Nigerians that it was trying to do something about the economic crisis while in actual fact, the presence of the aliens was not the cause of the country's economic woes.

It is instructive to note that the aliens were actually needed by some state governments who hired them as teachers. Some others were hired as domestic servants by federal legislatures. Thus the fact that some state governments as well as legislatures welcomed the aliens, belies government argument that they were the cause of the country's economic problem.

In line with the same thinking, the government felt that if it adopted an "open door" policy towards the employment of aliens in the country, there would be the tendency for them to take up the few available jobs meant for Nigerians. Doing this would be politically unwise especially when this was placed against the backdrop of the soaring rate of unemployment in the country which had continued to cast the spectre of a Trojan horse on the nations economy.

Again the logic behind the above thinking was faulty. It was faulty, precisely because the areas of economic activity where most of the aliens were engaged, were not the attractive areas of employment for Nigerians. Apart from the few skilled ones and those hired as teachers, most others were engaged as general artisans and domestic



servants and they constituted a source of cheap labour for those who hired them. Related to that, the kind of jobs they did were regarded as infra dignitatem by Nigerians. Therefore the argument of taking up the few available jobs meant for Nigerians cannot be sustained. To the extent, that the aliens had nothing to do with Nigeria's economic problems, government imputation to the contrary was an attempt to politicise the cause of the country's economic problems.

Interestingly, the protocol did not make any distinction between skilled and unskilled workers in relation to granting the right of residence and employment to Community citizens. In spite of this, Nigeria's own interpretation of the protocol is that only skilled workers and professionals will be granted the right of residence and employment. Nigeria knows quite well that skilled workers in the sub-region and professionals are more likely to migrate to the advanced industrial countries than coming to Nigeria. Thus the strings it attached to implementing the protocol is a clear attempt to frustrate the implementation of the protocol.

Turning to the political and socio-economic aspects of implementing the protocol, we notice that there has been a lacuna in Nigeria's policy. In the first instance, the Nigerian government has failed to evolve any coherent policy on how regional citizens could be distinguished from other aliens, their rights and obligations and their protection from probable hostile national chauvinistic groups. The absence of such a policy has resulted to two basic problems. First, there are few authentic official records on the number, residence and activities of ECOWAS citizens in Nigeria. Arising from that, some community citizens who enter the country on the basis of the protocol on free movement overstay their officially permitted ninety days. Many take up jobs while some others join the crime groups and thereby become felons. It was this state of affairs that impelled Tunde Obadina to observe that, "the influx of regional or community citizen into the country, the absence of any coherent national policies towards them naturally made these regional citizens ready scape goats for the several social and economic problems that plagued the country over the past few years."<sup>6</sup>

The above observation by obadina leads us into a crucial issue which touches on the moral and sociological implications of implementing the protocol and that is the 1983 expulsion of illegal aliens from Nigeria.

There have been gross contraventions of the provisions of the protocol by community citizens. This violation took several forms. For instance a large number of the community citizens came into the country through unapproved immigration posts without valid documents. However this was usually done with the collaboration of Nigeria's immigration officials. Still others that came with valid documents overstayed the period allowed (ninety days) without approval from the appropriate authority. A good number of them too had no visible means of livelihood, rather they roamed the streets of some Nigerian cities begging for alms.

Under this state of affairs, Nigeria's immigration act which contains special provisions on the admission of immigrants into the country as well as the activities they could engage in was rendered impotent. Section 8(i)(a) and (b) of the 1963 immigration act states that, "No person other than a citizen of Nigeria shall:-(a)

accept employment (not being employment with the Federal Government or a Regional Government) without the consent in writing of the Director of immigration" or (b) "On his own account or in partnership with any other person, practise a profession or establish or take over any trade or business whatsoever or register or take over any company with limited liability for any such purpose, without the consent in writing of the Minister given on such conditions as to the locality of operation and persons to be employed by or on behalf of such person, as the Minister may prescribe."

These provisions seem to be inconsistent with Nigeria's undertakings under phase two of the protocol for the protocol permits and allows community citizens to work and undertake commercial and industrial activities within the territory of member states. Yet Article 10 of the same protocol demands that community citizens residing in the territory of another member - state should comply with the laws in general and in particular the immigration laws of that Member - state.

Thus the earlier mentioned provisions of the immigration Act of 1963 were violated by the community

citizens that entered the country both legally and illegally. Some of the immigrants engaged in various kinds of commercial activities. They were in employment both in private and public sectors in the country. Quite a number of them were in household employment; some were employed in semi and unskilled labour while some engaged themselves in petty trading. In the words of Ali Baba, "those employed in the private sector except a few, neither had resident permits nor occupied the expatriate quota approved by the Minister of Internal Affairs."<sup>7</sup>

Then on January 17th, 1983 the federal government ordered all illegal aliens living in the country to leave within a fortnight. It is often argued in official circles in Nigeria and among public commentators that the quit order did not violate the letters of the protocol. Those that hold this view tend to rest their argument on the provisions of Article 4 of the protocol which empowers member - states to refuse admission, into their territories, to any community citizens that come within the category of inadmissible immigrants

under its law. However it is instructive to note that Nigeria's action contravened Articles 10 and 11 of the protocol. Article 10 states as follows: "the provisions of this protocol shall not operate to the prejudice of citizens of the community who are already in residence and establishment in a member state provided they comply with the laws in general and in particular the immigration laws of that member state." More importantly, Article 11(1) states: "a decision to expel any citizen of the community from the territory of a member state shall be notified to the citizen concerned as well as the government of which he is a citizen and the Executive secretary of ECOWAS". In the expulsion under reference, neither the government of the citizens concerned nor the Executive secretary of ECOWAS was notified. The announcement to expel aliens was made by the federal government on January 17th 1983 and they were given only two weeks to leave the country. This cannot be regarded as a notice but rather an ultimatum.

Those that argue that Nigeria's expulsion of illegal aliens violated only the spirit of the protocol

but not the letter, miss the essential point. They tend to isolate only Article 4 of the protocol which offers an "escape clause" while the more fundamental provision of Article 11(1) is ignored. Perhaps in line with the same thinking, Ali Baba argues that, "it is the prerogative of a country to know how many foreigners are within its territory, how many of them are working legally or illegally and how many are just roaming about the streets without any feasible means of livelihood."<sup>8</sup> A community citizen under the protocol is permitted to stay in a member - country for a period of ninety days (90) during which period he may take up employment. If on the expiration of the ninety day period, he does not secure employment, he could still apply for an extension of stay for another ninety day period. Therefore the issue of roaming the streets, without jobs is not a healthy development as it might eventually lead to acts of misdemeanour, but community citizens are granted protection under the protocol.

The quit order generated public outcry in some ECOWAS countries because of the hardship which the limited time given them to leave the country exposed

them to. In response to this outcry, the government had to concede some of the requests made by the sister countries affected by the order. Thus, it granted an extension of four weeks to the people who were employed in skilled work such as carpenters, masons, factory workers, fitters, typists and nurses. The extension of time was to allow such aliens sufficient period within which they could tidy up their personal affairs and leave in an orderly manner as well as avoid disruption of business in which such workers were engaged.

Secondly, it allowed the employers of aliens on professional and technical grades to regularise their stay in Nigeria by making adequate representations for expatriate quota slots to be granted for the posts they occupied.

Thirdly, citizens of the ECOWAS member - states who had been living in the country before the immigration Act of 1963 came into force, irrespective of what they do, were allowed to remain in Nigeria, and finally aliens who were employed by the federal and state governments were allowed to stay provided their employers regularised their employment with the director of immigration services as soon as practicable.



At this juncture, it is important to remark that there were remote and immediate causes that necessitated the "quit order". The issue of illegal aliens is a problem which the government had been trying to grapple with. Most of the aliens came into the country during the days of the oil boom to take advantage of the opportunities offered by the increased economic activities in the country. However in the later part of the second republic, for reasons that bordered on the mismanagement of the economy as well as the world oil glut, with the consequent fall in the revenue from oil, Nigeria's economy started witnessing some decline.

As the decline set in, the government came under severe criticisms at home for its inability to manage the economy well. This tended to create credibility problems for the government. Impelled by the imperative of maintaining itself in power, it turned attention to the aliens, giving the wrong impression that the aliens were the cause of the country's economic woes and that government was doing something to tackle the problem. In this connection, since the aliens contributed to the country's economic problems. It was economically

unhealthy for the country to continue harbouring them since their presence and activities tended to detract from the pursuit of government's economic revival measures. But in actual fact, the presence of the aliens did not have this effect. Thus the legitimacy crisis which the economic situation in the country created was the remote cause of the expulsion.

The opportunity to give them a matching order came on 3rd January 1983. On the day in question, some armed robbers assaulted the residence of the then Vice-President of Nigeria, Dr. Alex Ekwueme. The identity of some of those apprehended revealed that they were Ghananians. Following this incident, a committee was set up in the internal affairs ministry to recommend what should be done about the incident. Senior civil servants in the ministry forwarded a memorandum to the then minister of internal Affairs Alhaji Ali Baba stating that, "enough is enough" and that for security reasons all the illegal aliens must be expelled from the country."<sup>9</sup> The minister accepted the memorandum which he passed on to the President and the latter approved it.

"Initially the officials confined their recommendation to Ghananians. However, shortly before submitting their final recommendations to Ali Baba, they widened it to encompass all aliens illegally staying in Nigeria."<sup>10</sup>

Although Ghananians were the only aliens involved in the robbery incident, all the illegal aliens were asked to leave the country. Ostensibly the "quit order" was issued on grounds of security. But it was a case of politicisation of the security problem. Prior to the 1983 incident, precisely in December 1980, there was the Kano religious riot known as the Maitatsine riot. Some aliens in the country were found to have taken part, but they were not expelled thereafter. In the particular case of the robbery incident, it happened at a time as we mentioned earlier, when the government has come under severe criticism for the way it was handling the economy. The security question was also tied to the economic factor. This could be inferred from the statement of Alhaji Ali Baba himself for he said, "Nigerians in general positively welcomed the announcement of the quit order as their departure would mean additional job opportunities for Nigerians..."<sup>11</sup> We can see in this statement, a

feeling of satisfaction on the part of the government that it has assuaged its critics.

It is pertinent to note that the decision on the expulsion of illegal aliens did not follow the normal policy making process of ECOWAS. It was a case of a single Ministry taking a decision. The permanent committee on ECOWAS which is the body responsible for taking decisions on ECOWAS matters as it affects Nigeria was not consulted neither was the decision filtered through it. Moreover the Foreign Affairs Ministry was not involved at all in the whole negotiation/decision. This goes to show that it was a hasty decision taken by a government whose waning credibility was undermining its power base.

Perhaps what makes the free movement of persons protocol a bit worrisome is that a community citizen has no right to institute action against a national government for actions taken against him which may border on infringement of his rights. Although the Lagos Treaty provides for a setting up of a tribunal to adjudicate in matters regarding the interpretation or application of the Treaty provisions, its jurisdiction is clearly limited to disputes between member-states.

Individuals cannot initiate action before such a tribunal. In contrast, however, the European Economic Community (EEC) confers rights upon individuals justifiable before national courts irrespective of nationality. It was the recognition of this absence of legal rights on Community citizens, that prompted Asante to insinuate that, "the doctrine of the "primacy" of community law has not been acceptable to the national courts of ECOWAS member - states"<sup>12</sup>

The third phase of the protocol which confers the right of establishment on community citizens has not yet come into force. The principal reason is that not up to seven member - countries have ratified it which is the minimum number of ratifications required for a protocol to enter into force definitively, Nigeria has therefore not ventured to implement it since it is not yet operational. The community is still on the second phase of the protocol.

#### 4.2 THE PROTOCOL ON THE DEFINITION OF THE CONCEPT OF PRODUCTS ORIGINATING FROM MEMBER - STATES (TRADE LIBERALIZATION) AND THE 1984 CLOSURE OF NIGERIAN BORDERS

There are five basic assumptions of trade liberalization and economic integration which were articulated by Ernst B. Haas.<sup>12</sup> According to Haas, economic aspects of integration, If relevant to the evolution of a community,

must possess the following characteristics:

- 1, Agreement for gradual but complete elimination of tariffs, quotas and exchange controls on trade among the member countries;
2. Abandonment of the right to restore trade restrictions on a unilateral basis for the duration of the agreement regardless of difficulties that may arise;
3. Joint action to deal with problems resulting from the removal of trade barriers within the community and to promote more efficient utilisation of the resources of the area;
4. Some degree of harmonization of national policies that affect price structures and the allocation of resources (for example social security and agricultural programmes);
5. Free or at least freer movement of capital and labour

The ECOWAS protocol on trade liberalization is formulated around the aforementioned assumptions, for the issues itemised by Haas constitute the corpus of the liberalization scheme.

The ECOWAS trade liberalization scheme is designed to be accomplished within a period of fifteen (15) years from the definitive entry into force of the Treaty of

ECOWAS. First, Article 13(2) states that "within a period of two (2) years from the definitive entry into force of this Treaty, a member state may not be required to reduce or eliminate import duties. During this two-year period, Member states shall not impose any new duties and taxes or increase existing ones and shall transmit to the Executive secretariat all information on import duties for study by the relevant institutions of the community." Further, Article 13(3) states that "upon the expiry of the period of two(2) years referred to in paragraph 2 of the Article and during the next succeeding eight (8) years, Member states shall progressively reduce and ultimately eliminate import duties in accordance with a schedule to be recommended to the council of ministers by the Trade, customs, Immigration, Monetary and Payments Commission. Such a reduction shall take into account, inter alia the effects of the reduction and elimination of import duties on the revenue of member states and the need to avoid the disruption of the income they derive from import duties."

Also Article 14(1) (2) (3) states as follows:

1. "The member states agree to the gradual establishment of a common customs tariff in respect of all goods

imported into the member states from third countries." Paragraph (2) provides that, "at the end of the period of eight (8) years referred to in paragraph 3 of Article 13 of this Treaty and during the next succeeding five (5) years, member states shall gradually, in accordance with a schedule to be recommended by the Trade, customs, Immigration, Monetary and payments Commission, abolish existing differences in their external customs tariffs." Finally in paragraph (3) provision is made that, "in the course of the same period, the above - mentioned commission shall ensure the establishment of a common customs nomenclature and customs statistical nomenclature for all the member states."

The trade liberalization scheme in unprocessed agricultural products and handicraft became effective in May 1981, while experimental trade liberalization on selected industrial products originating from member states of ECOWAS took off in January 1990.

Nigeria is yet to implement stage one of the trade liberalization scheme concerning trade in unprocessed agricultural products and handicrafts. Nigeria still



maintains a ban on exportation and importation of foodstuffs. Although agricultural products and handicrafts are moved across the borders of Nigeria and other member - states, these transactions are going on illegally through the activities of smugglers. The list of unprocessed products that should be totally exonerated from import duties and taxes under the trade liberalization of unprocessed products are shown in Table 4.1.

**C/DEC. 8/11/79 DECISION OF THE COUNCIL OF MINISTERS ON THE TRADE LIBERALIZATION OF UNPROCESSED PRODUCTS.**

The Council endorsed the proposal that the English and French texts of Article V (f) of the Protocol on the definition of the concept of goods originating from Member States should be realigned and the French text be improved upon. The Council endorsed the following recommendations of the Commission:

- i. total exoneration of duties and taxes
- ii. free movement of these products without any quantitative restriction to be supervised by Economic Operators at the point of entry.
- iii. absence of compensation for loss of income resulting from the importation of these products.

**LIST OF UNPROCESSED PRODUCTS THAT SHOULD BE TOTALLY EXONERATED FROM IMPORT DUTIES AND TAXES <sup>2</sup>**

| No of Tariff Nomenclature and Statistics | Description of Materials  |
|--|---|
| CHAPTER ONE<br>(All items)               | Live animals  |
| CHAPTER II<br>(All items)                | Meat and edible meat offers   |
| CHAPTER III<br>(All items)               |   |
| 04-01                                    | Fish, crustaceans and molluscs, fish-egg  |
| ex- 04-05                                | Fresh milk (complete or skimmed)  |
| 04-06                                    | Birds' egg in shell<br>Natural honey  |
| CHAPTER IV<br>(All items)                | Other products of animal original n.e.s.<br>raw or simply prepared  |
| CHAPTER VI<br>(All items)                | Live plants, root and food tubers   |
| CHAPTER V<br>(All items)                 | Vegetables, plants, root and food tuber   |
| CHAPTER VIII<br>(All items)              | Edible fruits peel of melons and citrus<br>other spices   |
| CHAPTER IX<br>ex-09-01                   | Coffee (not roasted or grinded)<br>Green tea<br>Ungrinded pepper and pimento  |
| 09-04                                    |   |
| CHAPTER X<br>(All items)                 | Cereals   |
| CHAPTER XI<br>ex-11-06                   | Cassava flour (gari)  |
| CHAPTER XII                              |   |
| 12-01                                    | Oil seeds and oleaginous fruits   |
| 12-03-00                                 | Seeds, spores and fruits for sowing<br>Sugar canes.   |
| 12-04                                    |   |
| 12-07                                    | Plants and parts (including seeds and<br>fruits) of trees, bushes, shrubs of<br>other plant, being good of a kind<br>used primarily in perfumery, in phar-<br>macy, or for insecticidal, fungicidal,<br>or similar purpose, fresh or dried,<br>whole, cut, crushed, ground or pow-<br>dered |
| ex-12-08                                 | Néré seeds  |

| No of Tariff Nomenclature and Statistics | Description of Materials   |
|--|--|
| CHAPTER XIII                             | Raw materials of plant origin for<br>dyeing, tanning, gum, resin as well as<br>other plant juices and extracts (raw<br>or simply cleaned or dried) |
| CHAPTER XVIII<br>ex-18-01                | Cocoa beans, broken or raw   |
| CHAPTER XXII<br>ex-22-01                 | Tobacco and raw tobacco manufactures   |
| CHAPTER XXV<br>ex-25-01                  | Rock salt, white salt and sea salt   |
| ex-25-03                                 | Natural alumino calcium phosphates raw<br>natural marble   |
| ex- 25-16                                | Raw natural granite  |
| 25-20                                    | Raw gypsum   |
| ex- 25-32                                | Sand roses   |
| CHAPTER XXVI                             | Unprepared natural metallurgical mineral   |
| CHAPTER XXVII<br>ex-27-09                | Crude oil  |
| ex-27-15                                 | Crude bitumen and asphalts (unproces-<br>sed)  |
| CHAPTER XXXI<br>ex-31-01                 | Natural crude fertilizer<br>Guano and other natural fertilizers<br>(of plant or animal origin) which are not<br>chemically processed               |
| CHAPTER XII                              | Raw natural rubber and gum   |
| CHAPTER XLI<br>41-01                     | Raw skins (fresh, salted, dried, limed or<br>pickled)  |
| CHAPTER XLIV<br>44-03                    | Rough wood   |
| 44-04                                    | Simple squared wood  |
| 44-05                                    | Sawn wood  |
| CHAPTER XLVI                             | Natural weaving materials (plants barks<br>and unspinned natural textile fibres)   |
| CHAPTER LV<br>56-01                      | Cotton (unpicked cotton fibres or<br>simply picked ones)   |
| CHAPTER LVII                             | Other raw plant textile fibres   |

Footnote

1. Was published in the Official Journal, Volume 2, 1980, Pg 11
2. All Member States were informed by circular letters dated 26th June, 1981 for the English edition and 17th June 1981 for the French edition.

Member states are classified into the following three groups for the implementation of the Trade liberalization scheme for industrial products originating from member states of the community.

Group 1 - Cape Verde, Guinea Bissau The Gambia, Upper Volta (Burkina Faso) Mali, Mauritania and Niger.

Group II Benin, Guinea, Liberia, Sierra Leone and Togo.

Group III Ivory Coast, Ghana, Nigeria and Senegal

The time table for the elimination of tariffs for the industrial products by the groups of member-states are fixed as follows:

| COUNTRY<br>G  | PRIORITY INDUSTRIAL<br>PRODUCTS P1                      | NON PRIORITY INDUSTRIAL<br>PRODUCTS P2                        |
|---|---|---|
| G1: Cape Verde<br>The Gambia,<br>Guinea-Bissau<br>Upper Volta,<br>Mali, Mauri-<br>tania, Niger. | 8 years on the<br>basis of 12.5%<br>reduction each year | 10 years on the<br>basis of 10% reduc-<br>tion each year      |
| G2: Benin,<br>Guinea, Liberia<br>Sierra Leone,<br>Togo  | 6 years on the basis<br>of 16.66 reduction<br>each year | 8 years on the basis<br>basis of 12.5%<br>reduction each year |
| G.3 Ivory Coast<br>Ghana, Nigeria<br>Senegal  | 4 years on the<br>basis of 25%<br>reduction each year   | 6 years on the basis<br>of 16.66% reduction<br>each year      |

Source: Official Journal of the ECOWAS Vol.5, June 1983, P.3

On the implementation of the trade liberalization scheme for industrial products originating from member-states, the following enterprises in Nigeria together with their products have been approved to participate;

- a) Delta steel company - Billets and Laminated steel;
- b) Gaza Industrial Enterprises - Tiles;
- c) Gest - Products Limited - Biscuits;
- d) Golden Guinea Breweries Limited - Beer and stout;
- e) Berger paints Nigeria Limited - Paints
- f) Chemical and Allied Products Limited - Paints
- g) Cadbury Nigeria Limited - Bournvita, Pronto, Yam powder, Tomapep and confectionery;
- h) Bata Nigeria Limited - Shoe and Crumb rubbers;

(Source: Multilateral Economic Cooperation Department (MECD)  
Ministry of Foreign Affairs, Abuja

In the words of Osoba:  
the low level of implementation of trade Protocols in Nigeria can be attributed to the contradictions inherent in the Nigeria decision making and implementation process which allow ratification of Protocols (on free movement of goods) and at the same time maintain a general ban on the importation/exportation of agricultural products in the country in utter disregard of the spirit envisaged in the Protocols.14.

One unhealthy development that has a negative impact on the implementation of the trade liberalization scheme is that there is no official record of business transactions going on in the sub-region. In spite of the fact that Nigeria is yet to implement the trade liberalization scheme, it still paid the sum of 2.465.729 UA into the trade liberalization compensation fund in 1991. But because there is no official record of products leaving Nigeria for ECOWAS countries, the Nigerian businessmen participating in the scheme cannot be entitled to compensation from the fund.

Chimelu Chime made some fundamental points concerning the trade liberalization scheme. He stated:

there are certain deficiencies in the recording of trade in the sub-region pertaining especially to the distinction between domestic and foreign trade ... It is always problematic to make clear distinctions between domestic exports and various types of reexport due to questions connected with bulk-breaking, filling and other forms of initial processing ...15

He further contended that, "many of the countries in the region are landlocked, coupled with the fact that

processes such as bulk-breaking and filling and the ware houses are concentrated at the harbours."16 The consequence of the above situation according to him is that, "when the trade is recorded, transactions involving re-export within the region of merchandise imported from overseas, are recorded as domestic trade instead of straight forward re-export."17

The trade liberalization scheme in agricultural products, handicrafts and industrial goods are not fully operational. But even with the little that is taking place, Abbas Bundu has observed that, "there are still a number of non-tariff barriers that ECOWAS has to contend with; ordinary businessmen are confronted with numerous check points along the major highways as they traverse the borders of the community..."18

There is a glaring lack of interest and political will on the part of member - states to the trade liberalization scheme. Up to September 1990, only eight member-states showed interest in the scheme. They are Benin, Burkina Faso, Cape-Verde, Ghana, Mali, Niger, Nigeria and Senegal. The amount of money these countries paid into the trade liberalization compensation fund for 1991 as well as the proposed budget for 1992 are shown in Table 4.2.

TABLEAU  
TABLE /4.2

PARTICIPATION DES ETATS MEMBRES AUX ECHANGES INTRACOMMUNAUTAIRES DES PRODUITS ELIGIBLES ET LEURS CONTRIBUTIONS AU BUDGET DE COMPENSATION 1992/PROPOSITIONS OF ELIGIBLE PRODUCTS OF MEMBER STATES INTRACOMMUNITY TRADE AND CONTRIBUTIONS OF MEMBERS STATES TO THE 1992 BUDGET.

|              | BUDGET 1991 | BUDGET 1992 |
|--------------|-------------|-------------|
| BENIN        | 279.417     | 419.126     |
| BURKINA FASO | 289.221     | 433.832     |
| CAP VERT     | 19.608      | 29.412      |
| GHANA        | 1.102.960   | 1.654.440   |
| MALI         | 29.412      | 44.118      |
| NIGER        | 39.216      | 58.824      |
| NIGERIA      | 2.465.729   | 3.698.594   |
| SENEGAL      | 676.482     | 1.014.723   |
| TOTAL        | 4.902.046   | 7.353.069   |

SOURCE: EXECUTIVE SECRETARIAT, ECOWAS-LAGOS

An executive secretariat document shows that, "the contribution of a member - state to the compensation budget is calculated on the basis of a country's share in the value of total intra-community exports in originating manufactured products."<sup>19</sup>

By November 1991, six of the eight countries that showed interest in the trade liberalization scheme had applied to withdraw from the scheme leaving only two countries Nigeria and Ghana. Republic of Senegal applied for a suspension of its contribution to the 1991 estimated budget for its products approved in June 1990. The Republic of Benin requested the withdrawal of its application for approval for the products of "MANUCIA" which has changed its legal status. Burkina Faso requested that approval for the products of its two enterprises be cancelled since the products in question are not yet being exported to the zone. Mali and Cape Verde also withdrew from the scheme.

Following the withdrawal of the other six countries, only Ghana and Nigeria were left to carry on with the scheme. The value of their products certified in 1992 as well as the percentage of their contribution to the compensation budget are shown in Table 4.3.



TABLEAU  
TABLE 43.

PARTICIPATION DES ETATS MEMBRES AUX ECHANGES INTRACOMMUNAUTAIRES DES PRODUITS AGREES ET LEUR CONTRIBUTION AU BUDGET DE COMPENSATION/PARTICIPATION OF MEMBER STATES IN THE INTRACOMMUNITY APPROVED PRODUCT EXCHANGE AND THEIR CONTRIBUTIONS TO THE COMPENSATION BUDGET IN PERCENTAGE.

| Etat Membres<br>Member States | Valeur des Exportations<br>Value of Exports |                                    | Pourcentage des Exports<br>par Etat Membre | Montant des Contributions<br>au budget de compensation<br>Contribution of the compen-<br>sation budget |         |
|-------------------------------|---|------------------------------------|--|--|---------|
|                               | Monnaie Locale<br>Local Currency            | Unité de Compte<br>U.A. Equivalent | Percentage of Export<br>per Member State   | Unité de Compte<br>U.A. Equivalent   | Remarks |
| GHANA                         | \$9.154.000                                 | 6.882.000                          | 48,44                                      | 769.179  |         |
| NIGERIA                       | ₦ 17.710.000 )<br>\$ 5.627.000 )            | 7.326.000                          | 51,56%                                     | 818.721  |         |
| TOTAL                         |   | 14.208.000                         | 100%                                       | 1.587.900  |         |

SOURCE: EXECUTIVE SECRETARIAT,  
ECOWAS - LAGOS

It is pertinent to note that most member - states in the sub-region are reluctant to implement the trade liberalization scheme because of the deleterious effects it will have on their economies. Most countries in the sub-region derive a substantial portion of their revenues from import and export duties. This constitutes a central problem to any programme of trade liberalization which aims at abolishing these duties. The commercial policies of these countries which aim not only at raising revenues but also at protecting infant and established domestic industries as well as balance of payments have by their very nature erected barriers which complicate attempts at harmonization.

One discouraging thing is that presently no Franco-phone member - state is participating in the scheme. This could be due to a similar parallel organisation which Franco-phone member states with the exception of Guinea, and Mauritania belong to. The Union in question is the Union Mone-taire Ouest African that is the Franc Monetary Union otherwise called (UMOA). The imports and customs revenue that accrued to UMOA member - states between 1983 and 1987 helps to buttress our earlier point that member states are unwilling to participate in the trade

liberalization scheme because the bulk of their revenue comes from customs duties. The figures show that in 1983 the UMOA member - states recorded an import volume of FCFA 1648.6 Billion which attracted a duty of FCFA 361.6 Billion. In 1984, imports rose to FCFA 1689.1 Billion, but duties and tax fell to FCFA 350.1 Billion. In 1985, it further rose to FCFA 1708.9 Billion while duties and tax witnessed a big rise to FCFA 407.1 Billion. The revenue continued to increase up till 1987. The detailed figures are shown in Table 4.4.

## ANNEXE/ANNEX II : IMPORTATIONS ET RECETTES DOUANIERES DES ETATS MEMBRES DE L'UMOA

(1983 - 1987) EN MILLIARDS DE FCFA

IMPORTS AND CUSTOMS REVENUE OF UMOA (WEST AFRICAN MONETARY UNION) MEMBER STATES - IN BILLION FCFA

|               | 1983    |       |       | 1984    |       |       | 1985    |       |       | 1986    |       |       | 1987    |       |       |
|---------------|---------|-------|-------|---------|-------|-------|---------|-------|-------|---------|-------|-------|---------|-------|-------|
|               | Import  | D & T | %     | Import  | D & T | %     | Import  | D & T | %     | Import  | D & T | %     | Import  | D & T | %     |
| BENIN         | 112.0   | 19.4  | 17.32 | 125.9   | 16.0  | 12.70 |         | 18.9  |       |         | 18.6  |       |         | 17.6  |       |
| BURKINA FASO  | 109.6   | 22.5  | 20.53 | 111.3   | 20.9  | 18.78 | 146.2   | 26.9  | 18.40 | 139.6   | 33.6  | 24.07 | 130.5   | 34.3  | 26.28 |
| COTE D'IVOIRE | 704.2   | 175.3 | 24.9  | 658.6   | 177.8 | 27.0  | 773.0   | 218.8 | 28.31 | 709.0   | 229.5 | 32.37 | 673.9   | 222.9 | 33.07 |
| MALI          | 100.6   | 11.3  | 11.23 | 121.7   | 13.5  | 11.10 | 134.5   | 15.4  | 11.45 | 153.7   | 15.6  | 10.15 | 112.4   | 15.6  | 13.88 |
| NIGER         | 123.3   | 21.3  | 17.27 | 124.6   | 21.0  | 16.85 | 154.8   | 21.5  | 13.89 | 114.3   | 23.7  | 20.73 |         | 19.6  |       |
| SENEGAL       | 390.7   | 89.6  | 22.93 | 428.6   | 86.7  | 20.23 | 370.9   | 76.0  | 20.49 | 332.9   | 74.4  | 22.37 | 307.6   | 90.7  | 29.48 |
| TOGO          | 108.1   | 22.2  | 20.54 | 118.5   | 20.3  | 17.13 | 129.4   | 29.5  | 22.8  | 107.9   | 31.8  | 29.47 | 127.3   | 30.9  | 24.27 |
| UMOA          | 1 648.6 | 361.6 | 21.26 | 1 689.1 | 350.1 | 20.73 | 1 708.9 | 407.1 | 23.82 | 1 443.3 | 428.6 | 29.69 | 1 700.5 | 431.6 | 25.38 |

SOURCE : EXECUTIVE SECRETARIAT,  
ECOWAS - LAGOS

That a scheme of trade liberalization is germane to the success of any economic integration cannot be gainsaid. Member - states of ECOWAS are aware of this fact, yet their preoccupation with immediate short-term benefits instead of long-term rewards which stems from their inability to resist the pressure from their domestic economies, makes their attitude to the scheme to be characterized by ambivalence.

As far back as 1975, the then Nigerian Head of State, General Yakubu Gowon, in stressing the importance of trade liberalization as a pre-requisite for economic integration told his fellow Heads of state and Government that:

throughout the developing world, the fact has been brought home to countries associated with the giant economic groupings in the developed world that, inspite of such association, the industrialised countries continue to maintain restrictive policies against the imports of manufactured and semi-manufactured goods from the developing countries.<sup>20</sup>

Similarly President Ibrahim Babangida in 1987 while chiding his fellow Heads of State and Government for not showing seriousness towards implementing the trade liberalization scheme admonished thus:

the current international economic environment points to the urgent need to increase trade flows

among ECOWAS member - states. This is with a view to enhancing our collective self-reliance and improving the economic well being of our people ... no concrete step has been taken in the actual implementation of our trade liberalization scheme. Yet we complain of the collapse of commodity prices, reduction in Africa's share of world trade, balance of payments difficulties and so on. All discussions and documentation on African economic recovery have stressed the need for expansion of intra-African trade and increase in the level of technical cooperation. 21

In April 1984, coming immediately on the heels of the currency exchange exercise was the closure of Nigerian borders. At the time of the currency exchange exercise, it was believed in government circles that the second republic politicians who were removed from office by the military took some money out of the country. Thus when the currency was changed, the government also announced closure of the borders so as to prevent these corrupt Nigerians from bringing in the money they stole to exchange for the new ones. But in taking this action, the government did not consider the implications it had for the trade liberalization scheme which seeks to remove all barriers to free movement of goods.

The trade liberalization scheme of ECOWAS has not been a success story. Nigeria's position and role as a

prime mover of ECOWAS naturally entrusts on her great responsibility in the community. It is therefore expected to be showing leading examples by demonstrating practical commitments towards the implementation of protocols, since some member - states may be inclined to show deference to her. Indeed the late Guinean Head of state, Ahmed Sekou Toure once made clear the kind of perception other West African countries have about Nigeria. He stated:

the federal republic of Nigeria stands as a great African power in the deeply human and popular sense of the concept of power. The fact, that, great power is at the same time and without comparison the most populated on the continent gives more responsibility to the state of Nigeria with regard to Africa....<sup>22</sup>

#### 4.3 HOW THE PROCESS OF DECISION - MAKING IN NIGERIA AFFECTS THE IMPLEMENTATION OF ECOWAS PROTOCOLS

In Nigeria, the Federal Ministry of Finance and Economic Development has primary responsibility for ECOWAS affairs.<sup>23</sup> However the Ministry of Foreign Affairs offers very valuable support in all forms to ensure adequate protection of Nigeria's interest in the organisation. The volatile political situation in West Africa with its serious consequences on the socio-economic development of

the sub-region imposed further responsibility concerning ECOWAS on the Ministry of Foreign Affairs. However, the activities of ECOMOG in Liberia and by extension the Liberia - Sierra - Leone conflict are handled by the Foreign Affairs Ministry because they border on the Political aspect of ECOWAS.

The overall Coordinating Committee for Nigeria's affairs in ECOWAS is the Nigerian Permanent Committee on ECOWAS. It has its headquarters in the Ministry of Finance and Economic Development. The Committee comprises different Ministries and departments that are involved in various aspects of ECOWAS. Thus issues like trade liberalization and free movement of persons protocols involve the Ministry of Commerce and Tourism, the Nigerian Export Promotion Council and the Ministry of Internal Affairs incorporating Customs and Excise department as well as the Immigration department. At this committee each Ministry/Department is represented at the highest level.

The bulk of ECOWAS activities is carried out through its specialised commissions. The commissions are

- (a) the Trade, Customs, Immigration, Monetary and Payments commission;



- (b) the Industry, Agriculture and Natural Resources Commission;
- (c) the Transport, Telecommunications and Energy Commission; and
- (d) the Social and Cultural Affairs Commission.

Whenever there is a meeting of any commission, the Finance Ministry invites the relevant Ministry/Department concerned to participate in the deliberations of the Commission. When eventually decisions are arrived at, the Finance Ministry sends down the decisions to the relevant ministries for implementation.

Similarly at meetings of the Nigerian permanent Committee on ECOWAS, each ministry or Department speaks on various aspects of ECOWAS matters being handled by it. They present reports on what they have done with respect to implementing ECOWAS decisions.

It is pertinent to note that all the ministries have representatives in the Presidency. In addition, there is an ECOWAS officer in the Presidency.

The above institutional arrangement shows that there is no particular body that exclusively takes decisions on

ECOWAS matters. The decisions taken by the various ministries and departments are passed on to the Presidency in the form of recommendations. The final decisions are taken in the Presidency and sometimes but not always, the Presidency does not follow the recommendations of the Ministry.

This pattern of foreign policy decision-making seems to be the same under President Ibrahim Babangida. From 1960 till date, foreign policy decisions were at different times made either by the Head of state in consultation with the foreign minister or other ministries which handled particular aspects of Nigeria's external relations or they were made by individual ministers who tried to secure the consent of the Head of state or President. Thus while in the period 1960-1974, foreign policy proposals were supposed to pass from the ministry through the cabinet office to the federal executive council, in practise, foreign policy decision were made by the Head of state either in consultation with the foreign minister or the relevant individual ministries. Between 1979 and 1983 also, the individual ministries made foreign policy

decisions in consultation with the President. While from 1984 - 1990, the situation changed further to that of the President taking decisions in consultation with the foreign minister or any other relevant ministry.

What the above pattern shows is that the constitutionally designated arms of the government are rarely involved in the discussion of and decision-making of foreign policy. Thus the foreign policy that emerges tends to be inconsistent and incoherent. Decisions do not always reflect the broad-spectrum of the decision-making machinery. Consequently decisions are sometimes taken without due regard to the implications they have for the implementation of ECOWAS protocols. This finds expression in the stultification of ECOWAS protocols.

In the specific case of the illegal aliens, which we earlier discussed, it was a single ministry, the Ministry of Internal Affairs that took the decision that illegal aliens should be expelled from the country. The Foreign Affairs Ministry, the permanent Committee on ECOWAS and the other departments and ministries that deal on ECOWAS matters were not involved.

Generally the final decision taken with respect to ECOWAS lies with the Presidency and the President is not bound to accept the recommendations sent to it. But in the particular case we have cited, the president accepted the recommendation of the Internal Affairs Ministry since it was looking for a way to assuage domestic opponents of his government who were criticising him for his inability to manage the economy well. Perhaps if the various ministries or departments were involved, they would have thought of the implications of the expulsion of illegal aliens on Nigeria's obligations to ECOWAS. It is not that they would have prevented the President from expelling them, but perhaps the issue would have been handled in a more careful manner devoid of politicisation. We might therefore have seen how the process of decision making in Nigeria could stultify the implementation of ECOWAS protocols.

#### SUMMARY

In this chapter, two issues were the focus of our study viz, how Nigeria has implemented the Protocols it has ratified and second, how the process of decision-

making in Nigeria affects the implementation of ECOWAS protocols.

With respect to the protocol on free movement of persons, we showed how Nigeria violated the protocol by giving it a different and distorted interpretation from what the protocol states. This interpretation guided it in expelling illegal aliens from the country, a decision which also was in contravention of the protocol since the provisions of the protocol on expulsion of community citizens were not complied with.

As regards the protocol on trade liberalization, the continued embargo on the exportation and importation of foodstuffs, by Nigeria militates against the trade liberalization scheme on industrial products. In spite of this, some non-tariff barriers like delays at customs check points still constitute a problem to the scheme. We also noted the general lack of interest in the trade liberalization scheme by Member - states as evidenced in the withdrawal in 1991 of six out of the eight countries that originally showed interest in the scheme.

Finally our study shows that the process of decision making in Nigeria is not coherent. As a result, it stultifies the implementation of ECOWAS protocols.

NOTES

1. S.K.B. Asante "ECOWAS, the EEC and Lome Convention" in Mazzeo Domenico (ed.) African Regional Organisations (London and New York: Cambridge University Press, 1984) P. 179.
2. James Mayall "Oil and Nigerian Foreign Policy" African Affairs Vol. 75, No. 300, July 1976, P. 318
3. O.N. Odock "Political Economy and Regional Integration in West Africa: Nigeria and the ECOWAS Protocol on free movement of persons" (University of Nigeria Nsukka: Unpublished M.Sc. (thesis, 1983) P. 96.
4. ECOWAS Information Directorate "Racing Against Time: ECOWAS at the Cross roads" West Africa No. 3906 27 July - 2 August 1992, P. 1265
5. Ibid
6. Tunde Obadina "Illegal Immigrants as scape Goats" National Concord January 26, 1983 P. 3
7. Alhaji Ali Baba Text of address on aliens residing in Nigeria and registration of ECOWAS, Chad and Cameroun Citizens on 17th January 1983 International Herald Tribune June, 27, 1983 P. 135
8. Ibid.
9. Olajide Aluko "The Expulsion of illegal aliens from Nigeria: A Study in Nigeria's Decision-Making" in G.O. Olusanya and R.A. Akindede (eds.) The Structure and Processes of Foreign Policy making and Implementation in Nigeria 1960-1990 (Lagos: N.I.I.A. and Vantage Publishers, 1990) P. 432.
10. Ibid
11. Ali Baba Op Cit.
12. Asante Op cit P. 184
13. Ernst B. Haas The Uniting of Europe: Political, Social and Economic Forces (Standford, California: Standford University Press, 1958) P. 1.

14. Osodipo G. Osoba, Senior Counsellor Multilateral Economic cooperation Department, Ministry of Foreign Affairs Abuja, "Oral interview" June 17, 1992.
15. Chimelu Chime Integration and Politics Among African States: Limitations and Horizons of Mid-term theorising (Uppsala: The Scandinavian Institute of African Studies, 1977) P. 343.
16. Ibid
17. Ibid
18. Abbas Bundu "Interview granted to West Africa Magazine" as Published in West Africa No 3906 27 July - 2 August 1992, P. 1235.
19. See Memorandum from the Executive Secretariat of ECOWAS to the xxvii<sup>th</sup> meeting of Trade, Customs, Immigration, Money and Payments Commission Lagos, 28-31 Oct. 1991, P. 4.
20. General Yakubu Gowon, Opening Address to the formal Opening session of the Meeting of Heads of State of the ECOWAS, in Lagos, 27th May, 1975. P. 4
21. General Ibrahim Babangida, Opening Speech at the 10th Session of the Authority of Heads of State and Government of ECOWAS at Abuja 7th-9th July, 1987 PP 6-7.
22. Ahmed Sekou Toure quoted by Ifem E. Orji "Nigeria After Ten Years in ECOWAS". Nigerian Chronicle May 28, 1985 P.9.
23. In this section, I relied on the information provided by Mr Osodipo G. Osoba in an Interview he granted me at his office on 17th and 18th June, 1992. Mr Osoba is the Senior Counsellor in the Multilateral Economic Cooperation Department at the Foreign Affairs Ministry Abuja. He is in charge of ECOWAS matters in the Ministry.

CHAPTER FIVESUMMARY AND CONCLUSION

The purpose of this work has been to understand the dynamics of a regional economic grouping (ECOWAS) from the stand point of a particular country (Nigeria). However the work has been specifically interested in studying how Nigeria has implemented two of the ECOWAS protocols it has ratified. They are the protocol Relating to the Free movement of persons, Right of Residence and Establishment and the protocol on Trade Liberalization. The work also examined how the processes of decision-making in Nigeria affect the implementation of ECOWAS protocols. In doing the work, we reviewed some of the relevant literature available, to find out what had been written on the subject matter. From our review, we discovered that inspite of the existence of many works on ECOWAS, no systematic attempt has been made to address the questions in the way we posed them in this study. However some of the literature provided some useful information.

In doing this study, we adopted the neo-functionalistic theory of integration as our theoretical framework. The theory stresses the individual motives and interests of



elite groups involved in the process of integration. Arising from that, there is emphasis on the role of self-interest in shaping the perception of integration. Its emphasis is on the motivation of the actors involved and the intended and unintended consequences of their individual pursuit of self-interest.

We also proposed the following hypotheses:

- a) That Nigeria has not implemented the protocols it has ratified because the elites who are involved in the integration scheme accord primacy to domestic interests over that of the sub-region.
- b) That the structure and processes of decision-making in Nigeria stultify the implementation of ECOWAS protocols.

Also in chapter one, we indicated that the method of research we would adopt involves analysis of official ECOWAS documents as well as speeches presented by Nigeria's past and present Heads of State at ECOWAS fora. This was supplemented by interview.

In chapter two, we started by tracing the origin of ECOWAS as a sub-regional body. We noted that the initiative to form ECOWAS came from the United Nations

Economic Commission for Africa (ECA) which harped on the need to form a regional economic grouping as a way of stemming the tide of economic underdevelopment.

Nigeria then seized upon this initiative by organising several conferences between 1968 and 1975 which eventually led to the signing of ECOWAS Treaty on 28th May, 1975.

In the next section, we tried to examine the aims of ECOWAS and we showed that its central aim is the achievement of socio-economic development in the sub-region by stimulating and encouraging greater trade among the member - states.

Finally, we presented a picture of what the organisational structure of ECOWAS looks like. We examined the various organs set up by ECOWAS to perform its numerous functions. We noted that apart from the institutions, ECOWAS also has some specialised commissions charged with specific responsibilities.

In our third chapter, our concern was the examination of the two protocols that constitute the focus of our study. These are the protocol Relating to Free Movement of persons, Right of Residence and Establishment and the Protocol on Trade Liberalization. We

were able to show the pitfalls of these protocols, which member states exploit when it suits them, thereby freeing themselves of the responsibility which the protocols demands of them.

Our discussion in chapter four was centred on how Nigeria has implemented the two protocols we studied. Related to that, we evaluated the processes of decision making in Nigeria and how it affects the implementation of ECOWAS protocols. Our central argument was that Nigeria violated the provisions of the protocol on Free Movement in two ways. First, it violated the protocol by making a distinction between skilled and unskilled workers with respect to the category of community citizens that should be granted the right of residence, a distinction which the protocol did not make. Secondly, the singular act of the expulsion of illegal aliens which was not carried out in accordance with the provisions of the protocol was also a violation of the protocol. We showed that the government motive for expelling aliens though hinged on economic and security questions

was rather a politicisation of Nigeria's economic and security problems. For it was a decision taken by a government which was trying to secure its power base against onslaughts from domestic opposition, arising from its inability to manage the economy properly.

With respect to the trade liberalization protocol, we noted that Nigeria has not been implementing it especially with respect to unprocessed agricultural products since it still maintains a ban on importation and exportation of food stuff. On the other hand, some industries have been permitted to participate in the trade liberalization on industrial products. We were also able to show that there is general lack of interest in the trade liberalization scheme by member-states as evidenced by the withdrawal in November 1991 of six countries out of the eight member - states that originally showed interest in the scheme.

As regards decision-making, we observed that the formal structure and process of decision-making in Nigeria is rarely followed. Decisions are sometimes taken without consultation with the various ministries concerned. It is our contention that even when

decisions are taken, there is still lack of proper coordination between policy making and implementation. The consequence is that the implementation of ECOWAS protocols is stultified.

We then went on to explain the paradox of a state that helped to found an organisation which later failed to implement the organisations protocols and decisions.

To a considerable degree, writes Steven Rosens and Walter Jones,

the foreign actions of a nation are continuations of essentially domestic processes and demands, and international perceptions cannot be separated entirely from the broader value base which give rise to it.<sup>1</sup>

The reasons why Nigeria has not implemented the protocols it has ratified has to be located within the context of its domestic interests. A nation in pursuing its foreign policy objectives always endeavour to maximise its interests at home.

In the two specific studies we have dealt with in this work, we can discern the domestic factors at play in Nigeria's attitude to the implementation of the protocols. With respect to the protocol on free movement of persons as it relates to the expulsion of illegal

aliens, the real issue at stake was consolidating the power base of the government. The problem to contend with was the economic problem in the country which the government was unable to tackle effectively. This generated severe criticism from domestic groups within the country. Faced with the dilemma of how to solve the problem and motivated by the zeal to demonstrate to her critics that it was doing something to address the issue, it tried to link the economic problem in the country to the presence of illegal aliens and portrayed the latter as constituting a hindrance to government's economic revival measures. In taking this action, it hoped that her critics would be assuaged.

A country's foreign policy is contrived to satisfy domestic needs and not to forgo or sacrifice them. Nigeria's policy towards ECOWAS is guided by this principle. Thus when Nigeria places ban on importation and exportation of food stuff, it has to be seen in the context of trying to satisfy domestic needs. Allowing unrestricted importation of food stuff into the country will tend to discourage local production which is

necessary to stimulate economic growth. Similarly allowing exportation, will be at the expense of local consumption especially when the demand for the latter has not been fully met. Thus a trade liberalization scheme for unprocessed agricultural products tends to run counter to these objectives. This explains why Nigeria has failed to implement it by maintaining ban on exportation/importation of food stuff.

The whole question of economic integration, centres on how to accelerate economic development in the participating member - states. A country that has a weak and underdeveloped economy naturally tries to bring about some improvements. In doing so, it tries to maximise its gains while reducing costs. Economic integration on the other hand, calls for some sacrifice in the short-run which will translate into joint benefits in the long run. Member-states therefore undertake to abolish all restrictions to the free movement of persons and goods, as well as remove tariff and non tariff barriers. Retaining these tariffs guarantees substantial revenue through customs duties. As a result of the

fact that their economies are vertically integrated into the global capitalist system, an integration that creates a relationship of suppliers of raw materials (mainly agricultural products and minerals) to the advanced industrial countries and providing markets for their manufactured goods, the export-import relationship guarantees them revenue through duties. Calling on them to forgo these duties becomes problematic. They identify more with a relationship that seems beneficial in the short-run than one that calls for sacrifice. The explanation on why Nigeria has failed to implement the protocols it has ratified could be linked to this preceding point we have discussed.

Nigeria has failed to implement the protocols it has ratified because its preoccupation with the pursuit of domestic interests also finds expression in her trying to weigh the costs of implementing protocols against its gains. If the costs from its calculations surpass the benefits, it becomes reluctant to implement.

An alternative explanation could be that the resources it commits to ECOWAS, have not brought commensurate benefits to it. Nigeria contributes 32.8% of



ECOWAS yearly budget, yet there is little to show in terms of what it has gained economically from the integration scheme. Rather than attracting goodwill to the country, Nigeria's pioneering role in ECOWAS together with the resources it has committed into it, evokes a feeling of fear of domination by Nigeria over other member - states.

A fundamental point to underline is that, there is a close relationship between the structure and process of decision-making in Nigeria and the implementation or non-implementation of ECOWAS protocols. In Nigeria, the institutional structure and process of decision-making exists only in name. In actual practice, this is not followed. There is the permanent committee on ECOWAS which is the main body that is responsible for ECOWAS matters. The committee comprises different ministries that are involved in various aspects of ECOWAS, but rarely are matters presented before the committee for consideration. What rather obtains is that decisions are often taken by a single ministry in consultation with the President while the Committee is marginalised. Even when such decisions are taken, they are not filtered through

the committee so as to know the implications which such decisions have on Nigeria's obligation to ECOWAS . Decisions are sometimes taken ad hoc to solve immediate problems, regardless of their impact on long-term commitments.

Besides, there is lack of proper coordination in decision-making and implementation. There is no effective coordinating body that ensures that decisions taken are implemented by the ministry concerned. Implementation of decisions is rather left to the discretion of individual ministries concerned. This creates a yawning gap between decision-making and implementation. The case of illegal aliens expulsion which we earlier discussed in our fourth chapter helps to illustrate this point. A single Ministry, the Ministry of Internal Affairs took the decision. Not even the Foreign Affairs Ministry was consulted to advise on the international repercussions of the action taken. It seems also that the decision to close the borders in 1984 was taken without due regard to its implications for the ECOWAS protocol on trade liberalization.

It could therefore be argued that if the real structure and process of decision-making come to bear on decisions pertaining to implementation of ECOWAS protocols and related matters, the pros and cons of decisions will constantly be weighed. All the matters involved in a particular issue will be addressed. By the time the various ministries articulate their views, on the consequences of particular decisions, a more integrated and coherent decision will be arrived at which will ensure that any domestic decision does not hamper the implementation of ECOWAS protocols.

Inability to individually solve common economic problems impels states to coalesce into regional economic groupings. In forming this regional blocs, states undertake to harmonize their policies and to carry out joint functions for the benefit of the whole. Each member - state agrees in principle to play down her domestic interests and work towards achieving the greater interest of the sub-region. Hence, they articulate programmes which they want to carry out and set down the procedure to be followed in achieving this in form of protocols.

However, as these programmes get to the implementation stage, member-states participating in the integration scheme, soon discover that it calls for a lot of sacrifice. Instead of the programmes helping them to improve their economies in the short-run, it rather tends to complicate them. They soon realize that the benefits that will accrue to them takes a relatively long time to materialize.

Impelled by the desire to pursue their domestic interests, they begin to notice that the overall long-term goals of the community can only be achieved at the expense of some immediate domestic interests. This entraps them in a dilemma between going it alone and acting collectively to solve a common problem. Then emerge the poll of indifference to community goals and the poll of commitment. The pressure from the domestic environment that local needs should not be sacrificed at the altars of community goals, generates a luke-warm attitude to community objectives. This finds expression in the non-implementation of protocols.

As states participating in an integration scheme cooperate and carry out joint functions, they try to

evaluate how they have benefitted from the performance of these functions. The willingness to add new ones is only generated when previous functions have been beneficial. But as attention is once more shifted from sub-regional goals to domestic ones, the states soon realize that problems confronting their economies can only be addressed meaningfully through joint action. In this connection, the push to integrate and the pull to solve domestic problems drive them in different directions giving rise to ambivalence and vacillation.

Collective management of economic problems is an aspect of foreign policy, it does not replace foreign policy. Ipso facto, diplomacy and action in a regional organization provide another way of implementing foreign policy. Far from transcending the objectives that states consider to be their national interests, regional organizations are forums for realizing these interests when action outside the organization is either not possible or desirable. Action by the

organizations never exhausts the possibilities open to states; action outside them is usually possible and sometimes preferred.

In spite of the seventeen (17) years of ECOWAS existence, its journey on the road to achieving some of its goals is still far from being reached. It is operating behind schedule in most of its programmes. Even with the ones that have taken off, remarkable progress has not been made. A lot is expected from Nigeria by other member-states since she is the prime mover.

When a state lacks the power or leverage to compel others within the same grouping to procure a particular behaviour, she can still pull them along by serving as a shining illustration of the groups desire to achieve its goals through her action. Nigeria has not shown good example to other member states. Rather, some of the actions it has taken tend to dampen the spirit of other member-states who would have been influenced by Nigeria's shining example to show commitment to ECOWAS. ECOWAS remains a "talk shop", quick at making resolutions, yet slow at implementation.

There are reciprocal obligations and privileges in any joint undertaking. Nigeria and the other member - states have a duty to discharge their obligations to the community faithfully, If it is to be an effective instrument for achieving the goals they have set for themselves.

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### RECOMMENDATIONS

Nigeria and other ECOWAS member - states should first of all come to terms with one basic reality. That reality is that the achievement of a viable economic integration has to be at some costs to member - states. If they have this at the back of their mind, then the whole issue of trying to maximise their domestic interests at the expense of sub-regional interests will no longer assume prominence.

Secondly, for integration to succeed, the member-states have to demonstrate enough preparedness to identify with and show commitment to the objectives of the sub-regional body. They should not see the obligations they assume under ECOWAS as an encroachment on their sovereignty. Rather they should see it as a necessary sacrifice they have to make in the interest of the community. This is the whole issue of political will.

ECOWAS should not be meant to operate only at the institutional level. The idea of ECOWAS should be foisted on community citizens so that they will identify with the goals of the community. This is because



Inter-state relations are basically relations between human beings and not abstract entities called states. Individuals should therefore be made to have a stake in the organization.

In recognition of the fact that there are differences in the legal systems of member - states, there is need to harmonize them in areas where possible, to ensure that such laws do not operate to the detriment of ECOWAS protocols especially with respect to granting the Right of Residence to Community citizens.

The situation in Nigeria where the structure and process of decision-making on ECOWAS matters is often sidetracked does not augur well for the community. It is usually said that two heads are better than one, although one may add, provided they are two wise heads. The point is that if all the bodies that have responsibility for ECOWAS matters, participate in taking decisions, the implications of decisions taken on Nigeria's obligation to ECOWAS will be given better attention unlike the arrangement where only a ministry takes decisions. Besides, there is the need to ensure proper

coordination of the decision-making and implementation process. In deed, an effective coordinating unit should be set up to monitor properly the implementation of decisions arrived at.

If these aforementioned things are done, it is hoped that they will translate into greater commitment to ECOWAS by Nigeria in relation to implementation of ECOWAS protocols.

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NOTE

1. Steven J. Rosens and Walter S. Jones The Logic of International Relations (third edition) (Cambridge, Massachussets: Winthrop Publishers Incorporated, 1980) PP. XVI - XVII.

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