THE LEGAL IMPLICATIONS OF ECONOMIC INTEGRATION AND THE ROLE OF FINANCIAL INSTITUTIONS WITHIN THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

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ABSTRACT

Several authors have canvassed for economic integration within ECOWAS region; the reason for this is to encourage foreign investors within the region. The original ECOWAS agenda also included a framework for solving inter-state conflicts. Even so, these conflicts throughout the region in the 1990s caught the region and ECOWAS unprepared. In the role of a regional organization, ECOWAS had to respond to the conflicts, shifting its focus away from the original agenda of commerce and economic cooperation. The ad hoc lead up and deployment of ECOWAS forces offered lessons for the future and ECOWAS created a framework mechanism for responding to conflict resolution, prevention, and peacekeeping. In the second Liberia crisis[i] this was applied and seemed to be more effective, professional and organized than previous responses.

However, ECOWAS remained weak in the prevention phase of the conflict cycle and insufficient capacity continues to limit its post-conflict capacities in the region. ECOWAS therefore welcomed the UN Peace building Commission assistance.

Today in the region, ECOWAS functions on a regular platform with four pillars: Peace and Security, Developing Infrastructure, Policy harmonization (to facilitate trade) and Good Corporate Governance. One highlight of its current activities is the West Africa Customs Union; this will integrate regional trade and increase external trade of processed goods, thereby creating jobs. A good deal of emphasis is placed on helping member states

understand that adhering to the supra-national level will bring benefits at the national level. This paper shall unravel the legal implications and identify reoccurring issues; and make recommendations on the way forward.

Key Words: Economic Integration, Financial Institutions; Legal Challenges

INTRODUCTION

The dynamics in the socio-economic policies and legal regime of a nation determine the scope and forms of foreign investment requirements in that nation. ECOWAS cannot be said to be different from what is obtainable globally. Any foreign investor may invest in any nation where the polices are accommodative. For that reason, various developing countries and emerging economies are particularly eager to attract Foreign Direct Investment (FDI) to enhance sustainable economic growth and development. The contemporary rapid growth of FDI flows into developing countries is a consequence of the changes in world economic politics predominantly the far-reaching liberalisation of policies towards FDI and other policy reforms to improve the investment climate[ii].In the developing world, FDI is one of the most important driving forces of utilising the resources of multi lateral treaties for industrialisation[iii].Contrary to the area of international trade where the General Agreement on Tariffs and Trade (GATT)[iv]and the other WTO Agreements provide the general legal framework for world trade regulation, there is no comprehensive global agreement on foreign investment[v].

Nevertheless, there is a plethora of specialised multilateral investment treaties mainly adopted within the framework of GATT/WTO, Organisation for Economic Co-operation and Development (OECD) and the World Bank. These multilateral investment treaties include, among others, the Agreement on Trade-Related Investment Measures (TRIMs Agreement)[vi],the General Agreement on Trade in Services (GATS)[vii],the Agreement on Trade-Related Intellectual Property Rights (TRIPs Agreement)[viii],the International Centre for Settlement of Investment Disputes (ICSID) Convention[ix],the Convention Establishing the Multilateral Investment Guarantee Agency (MIGA)[x]and the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) which focus on certain aspects of FDI.

Foreign direct investment (FDI) is indeed one of the viable means of financing long term sustainable economic growth among countries in the developing world, particularly in ECOWAS region. This paper shall identify some major financial institutions as potent financing option that developing countries within the integrated global economy can avail. FDI contributes to growth in a substantial manner because it is more stable than other forms of capital flows. Hence, it occupies and as well takes the prime position in the portfolio of development financing mix of most developing economies.

CHALLENGES FACING THE ECOWAS REGION

Dr. Chambas[xi] also addressed current challenges facing the region and the organization and current responses from ECOWAS.

1. Wide proliferation of small arms and light weapons: He mentioned the estimated 10 million arms that are easily and currently available throughout the community as one of the causes of extended conflicts. ECOWAS has a small arms program that was originally joined with the UNDP. ECOWAS now has more direct ownership with national committees in all member states except Cote d'Ivoire.

2. Respect for Human Rights and Civil Liberties: Human rights and civil liberties abuses stem from bad governments. ECOWAS is building a network of National Human Rights committees with international partners to address respect for human rights.

3. Ensuring credible, transparent, free and fair elections: This is difficult because there are so many crises in this area. There are positive recent examples this year from Sierra Leone and Togo, both countries where ECOWAS was present for the pre-electoral preparations and during the elections, ensuring security and providing observation and monitoring. In the case of Nigeria, everyone, including the President of Nigeria, admits to a disappointing election in terms of credibility at international standards. The Nigerian President promised and has created a committee of credible persons to investigate what went wrong, a promising sign even if the actual elections were not what people had hoped.

4. Migration: Migration is very important because West African youth do not see any future within the region and therefore are risking their lives to reach the EU or U.S. Economic opportunities must be created for the youth to stay and help develop the region.

5. Drug trafficking: West Africa is seen as a soft spot for drug trafficking where organized groups use the region as a transport point. ECOWAS is working with the UN Drug Control regional office in Dakar to address this issue.

6. Tuareg situation: The question of the Tuaregs in northern Mali and Niger is delicate because these are people with a very different culture to bring under the central control of states. Yet one cannot ignore the criminal elements who engage in trafficking of humans, cigars, arms and drugs. ECOWAS intends to work on this issue within the African Union (AU) framework because it is important to bring in non-ECOWAS states including Algeria, Sudan, etc.

7. Global warming: Global warming presents yet another challenge to the region, exemplified by this year's severe flooding across West Africa. Work in this sector must focus on the management of common resources such as river basins, lagoons and other fragile ecosystems.

States as actors in the international arena always pursue objectives that are in their respective "national interest", broadly defined as the welfare and material well-being of each actor's nationals or citizens. The United Nations has, through its various agencies and special sessions urged developing countries to promote regional integration and cooperation in the fields of economic development. In Africa in particular, the United Nations Economic Commission for Africa (UNECA) in 1955, recommended that member states of the commission should establish as soon as possible, on a sub-regional basis, inter-governmental machinery for harmonizing their economic and social development agenda.[xii] The United Nations Resolution on the International Development Strategy for the second UN Development Decade urges developing countries to continue their efforts to negotiate and put into effect schemes for regional and sub-regional integration among themselves. The sixth special session of the UN General Assembly held in May 1974, adopted the Declaration on the Establishment of a new international Economic Order[xiii] and a program of Action on the establishment of a New International Economic Order[xiv] which among other things, recognizes that collective self-reliance and growing cooperation among developing countries would further strengthen their role in the new international economic order.

From the foregoing, it is incontrovertible that a clear understanding and synthesis of the West African Economic Integration strategy would derive from the roles played by both national and multilateral financial institutions in the attainment of the objective of integration. This chapter is therefore concerned with an exposition on the various financial institutions which have or should have a nexus with the facilitation of the West African integration arrangement, with a view to eliciting the strength and weaknesses of the enabling treaty of ECOWAS and the collateral charters that established those financial institutions and pull it through to the operation of these institutions with the ultimate aim of positioning them as the missing link and indispensable agents of change in the economic integration strategy of West Africa.

THE ROLE OF FINANCIAL INSTITUTIONS IN WEST AFRICAN ECONOMIC REGIONAL INTEGRATION

Money lending in one form or the other has evolved along with the history of mankind. Even in the ancient times there were references to moneylenders. Shakespeare also referred to 'Shylocks' who made unreasonable demands in case the loans were not repaid in time along with interest.

International financial institutions have different objectives, areas of specialization and expertise. For example, the International Monetary Fund (IMF), World Bank (WB), African Development Bank (AfDB), etc, all have their different mandates. However, in spite of their different mandates, an in-depth evaluation shows that these institutions have similarities in the broad types of contributions they make towards facilitating the activities of regional integration. These may include but are not confined to the following:

1. International financial institutions provide financing, usually in the form of loans and in some cases, a significant grant element to help the country-

authorities attain objectives agreed upon in consultation with the former. The financing element may support specific investments, for example, infrastructure and capacity building; or it may be part of a sector-specific or economy-wide adjustment program.[xv]

2. International financial institutions support national authorities efforts to design policies to achieve specific economic and social targets. This usually entails extensive consultations with both officials and private sector representatives, and between the headquarters and resident staffs of the international financial institutions to identify the bottlenecks and most important issues that the country faces. These are generally followed by the preparation of written reports summarizing the findings and proposed policy recommendations of the international financial institutions' staffs. The policy packages agreed upon may include funds or other assistance specifically targeted on enhancing capacity in social or economic areas.[xvi]

3. International financial institutions encourage the development, dissemination, and adoption of internationally accepted standards and codes of good practice, in economic, financial and business activities. The adoption and implementation of such standards and codes contribute to the development and improved functioning of domestic institutions, which in turn, can help countries better integrate themselves into the world economy and benefit from growing globalization.[xvii]

4. International financial institutions provide training on a multitude of topics. This training can take place within the framework of a specific project that a country implements with the support of an international financial institution. For example, projects calling for reform of public enterprises, the civil service, tax administration, financial sector, or economic integration program. It can also be provided in courses, workshops, and seminars offered by the training institutions of international financial institutions.[xviii]

5. International financial institutions collaborate in Africa and other regions with regional training and research institutions (including the African Capacity Building Foundation and the African Economic Research Consortium) to facilitate knowledge transfer; train economic analysts, officials, and "trainers", and also support economic research.[xix]

These are among the other roles they play in the financial and economic integration of the West African region. It is however common place to state that the entry point for these financial institutions into the development projects of the West African integration project depend largely on the agenda set by the integration strategy itself; the strategy in this respect being the legal framework, which is the treaty of ECOWAS. In juxtaposing the content of the activities of these financial institutions and the content of the ECOWAS treaty as it relates to the window for the intervention of these institutions in the economic integration arrangement, it will clearly be seen that a crucial gap exists in the ECOWAS treaty in defining specific roles for the financial institutions, which gap has remained the bane of the integration project in West Africa.

Financial institutions all over the world are known to serve the critical role of providing for any development objective that has humongous capital investments, the type and degree targeted by the west African integration dream, the needed financial and policy impetus *inter alia,* for it to attain its desired objectives. This position is categorically fortified by the role that financial institutions played and are currently playing in the overall survival of the European Union. There is no doubt that the spirit of economic integration is more expediently driven by the private sector and this private sector requires the close partnership of the public sector which is responsible for the enactment of the relevant legislation that will place these financial institutions on the front burner in the pursuit of the noble and timely arrangement of economic integration. In that absence, it understandable that these institutions have remained complacent and performed below optimal levels in respect of their intervention and contributions to the integration scheme, compared to the heavy global investments they are currently putting in to rescue, sustain, stabilize and in some cases consolidate some other integration arrangements around the-world.

THE VARIOUS FINANCIAL INSTITUTIONS AND THEIR ROLES IN WEST AFRICAN ECONOMIC INTEGRATION

There are different financial institutions empowered to carry out mandates that vary from one to another. Thus, it will be apt to look at these financial institutions and the distinct roles they play respectively in the West African Region economic Integration program.

a. Commercial Banks

Towards the beginning of the twentieth century, with the onset of modern industries in countries of Africa, the need for government regulated banking system was felt. The British government began to pay attention to the need for an organized banking sector in their countries of colonies. This attempt set the ball rolling for African countries to own commercial banks, banks they ultimately inherited from their colonial masters right from the time of independence.[xx]

Generally, commercial banks perform similar functions around the World with different portfolio and quality of services. Though these services are similar, they vary slightly from bank to bank and from country to country.

Commercial banks within the West African sub region perform the roles of catering for the credit needs of all sections of society.[xxi] Modern economies in the world have developed primarily by making the best use of the credit availability in their systems. An efficient banking system caters for the credit needs of high-end investors by making available high amounts of capital for big projects in the industrial, infrastructure and service sectors.

Commercial banks also cater for the economic needs of the society through mopping up small savings at reasonable rates with several options.[xxii] The common man has the option of parking his savings under few alternatives, including the small savings schemes introduced by the government from time to time and bank deposits in form of savings accounts, recurring deposits and time deposits. Another option is to invest in the stocks or mutual funds. In addition to the above roles, banks and other financial institutions perform certain new-age functions, which could not be thought of a couple of decades ago. There is also the incidence of policy collaboration with the governments of member states regarding projects carried out in the region. The birth of internet banking has also made it a lot easier for banking transactions to flow across the region; in the sense that electronic cash can be moved from one country to another without the handling of raw cash to finance commercial transactions. The facility of ATM and credit/debit cards has also revolutionized the choices available to the customers; so that wherever one is, one can either credit or debit his account without the hitherto traditional banking practices of queuing up for payments or cash deposits.[xxiii]

It is imperative to note that the banks are also involved in the matters of foreign exchange and interest rates administration and implementation in their respective countries of operation. All funds raised through the collections of the common external tariff and other bills on trade are coordinated through the banks, thereby positioning the banks as directly responsible for all financial transactions of the ECOWAS. The banks also serve as gateways for making payments on account of income and other forms of taxes including various bills.[xxiv]

Evaluating the foregoing roles, the commercial banks play in the West African sub region on a country-by-country basis, it is clearly discernible that these commercial banks constitute the fulcrum of the integration strategy of ECOWAS. The Treaty does not appear to have recognized this critical institution[xxv] and have therefore not provided for it the definite role it deserves to play in this complex agenda. There is no doubt that these commercial banks in their respective drives to mobilize as many customers and investments as possible have reached out to other countries as branches and have involved themselves in different integration projects, like the collection of customs duties, the harmonization of deposits and payments from one country to the other, the acceptance of deposits and payment of cash across different borders within the sub region etc. All these are promoted on an informal basis.

In all there several commercial banks in most of the countries that have the capacity to support the regional policy, there is no doubt that the current legislation leaves so much more to be desired, if the fortunes of the economic integration strategy must be improved, as this can only be achieved with the radical and indispensable introduction of law that will guarantee common grounds for all commercial financial institutions within the sub region with common rules of engagement to engender competition and proficient services direly needed to support the integration process.

b. West African Monetary Institute (WAMI)

This institute was established by Six West African Countries,[xxvi] as an embryo Central Bank for the second monetary zone, just as the European Monetary Institute (EMI) in Europe was the forerunner to the European Central Bank (ECB). Statistics collected and collated from the Institute are to be harmonized to cover the West African Monetary Zone (WAMZ).[xxvii] The WAMZ comprises countries that have undertaken to adopt a common currency as at the year 2003, creating a second common currency. This would create a second common currency in ECOWAS, the first being the CFA zone.[xxviii] The WAMZ was established in December 2000 as an alternative strategy for ensuring the actualization of the ECOWAS monetary Cooperation Program (EMCP) on a fast track basis. This strategy seeks to create a second monetary zone that would subsequently merge with the West African Economic and Monetary Union (WAEMU).[xxix] The establishment of the WAMZ was a response to the slow pace of implementing of the EMCP, because it was clear that the EMCP could not gather momentum -if an alternative initiative was not started by its non-CFA zone members. The WAMZ was expected to crystallize into a single monetary union with a common Central Bank and currency.[xxx] Thus, in order to facilitate the creation of the common Central Bank and the introduction of a common currency, an interim institution, the WAMI was set up in Accra, Ghana in January 2001.[xxxi] The WAMI was established under the agreement of the WAMZ and by the statute of the WAMI signed by the authority of the Heads of State and Government on the 15th day of December 2000.[xxxii] The WAMI is responsible for the establishment of a common West African Eco merging into the CFA franc zone[xxxiii] to ultimately form a single monetary zone in the sub-region.

c. The Central Bank of West African States

In a bid to build on the successful monetary cooperation arrangement, the member countries of West African Monetary Union (WAMU) transformed the union into an economic community, the West African Economic and monetary Union (WAEMU).[xxxiv] The WAEMU was founded on the 10th of January 1994 in response to the devaluation of the common currency, the CFA Franc, on the 11th January 1994. The treaty establishing WAEMU (the Dakar Treaty of 10th January 1994) theoretically came into effect on the 1st of August 1994 after ratification by the seven member countries,[xxxv] thereby also replacing the dissolved West African Economic Union (WAEU).[xxxvi] On May 2, 1997, Guinea- Bissau, a former Portuguese colony became its eight (and only non- Francophone) member state.[xxxvii]

WAEMU is a common customs and monetary union between some of the member states of the ECOWAS. Its objectives are greater economic competitiveness through open and competitive markets, along with the rationalization and harmonization of the legal environment, the convergence of macroeconomic policies and indicators; the creation of a common market; the coordination of sectorial policies; and the harmonization of fiscal policies.[xxxviii] The essence of WAEMU is to fashion a real common socio-economic zone in the economic integration of West Africa and in collaboration with the two other community institutions Central Bank of West African States and Bank for West African Development (BOAD) and the member states is responsible for drawing up Acts supplementary to the Treaty, regulations, directives and recommendations to be adopted by the decision-making body of the union, namely, the authority of the Heads of state and Government and the Council of Ministers and for the implementation of these Acts.[xxxix]

With the combination of the above institutions, the projected emergence of the proposed West African Central Bank could become a reality when there is a legal perfection of all the details. It follows therefore that there is the urgent need for several African countries under the dictate of France, to muster the will and courage to take advantage of the platform of integration as a ready window for not only a real and sound economic freedom and prosperity but also real political independence from France.

d. *West African Monetary Agency (WAMA)*

The West African Monetary Agency (WAMA) is an autonomous specialized agency of the ECOWAS. The West African clearing House (WACFI), which was established in 1975, as a multilateral payment facility to improve sub-regional trade in West Africa was transformed into a broad based autonomous agency called the WAMA.[xl] Although WAMA is an organ of ECOWAS, it is placed under the authority of the Committee of Governors of member Central Banks. However, ECOWAS and WAMA maintain close working relations through meetings of mutual interest in addition to meeting on reports being reciprocally exchanged between the institutions. WAMA also maintains close collaboration with other international organizations such as the West African Bankers' Association (WABA), the international Monetary Fund (IMF), African Development Bank (ADB), Association of African Central Banks (AACB) and the World Bank.[xli]

e. African Development Bank (AfDB)

The African Development Bank Group is a regional development bank established in 1964 with the mission of promoting economic and social development in Africa. 53 independent African countries own it and these countries control 60% of the shareholding. 24 countries of America, Europe and Asia jointly control the remaining 40% shareholdings, but its banking and development activities are restricted to Africa.[xlii] The Group comprise the African Development Bank (AfDB), the African Development Fund (ADF), and the Nigerian Trust Fund (NTF).

The AfDB, in its organizational structure has at the apex of the Bank the board of governors.[xliii] Each member-country is represented on the board of governors, which is the supreme organ of the Bank. This is followed by the Board of Directors, which forms the executive management of the Bank.[xliv]

Under article 36 of the AfDB Agreement, the Board of Governors elect by a simple majority votes the President of the Bank. Regional and non- regional members of the Board of Governors do this election.[xlv] The AfDB provides loans and grants to African governments and private companies investing in the regional member countries (RMC) in Africa.[xlvi] It is owned and funded by member governments, and has a public interest mandate to reduce poverty and promote sustainable development.[xlvii] The AfDB has a regional mandate to "contribute to the economic development and social progress of its regional members", with an operational focus on agricultural and rural development, human resource development, private sector development, governance, economic integration and cooperation, environmental and gender issues.[xlviii]

As mentioned earlier, the Bank places high priority on national and regional development operations, which strengthen intra-African economic cooperation and regional integration. Thus, in pursuit of its mandate, the Bank plays a major role in the economic integration of West Africa by collaborating with other regional institutions such as the Economic Commission for Africa (ECA) and the African Union (AU) in facilitating the creation and nurturing of African regional organizations. This cooperation culminated in the creation of a joint ADB/ECA/AU secretariat, which coordinates their development efforts and initiatives.[xlix]The Bank plays another role of financing integration-enhancing studies such as "Economic integration and Development in Africa",[l] Economic integration and Structural Adjustment",[li] Economic Integration in Southern Africa",[lii] amongst others. The Bank supports multinational projects, provides resources to regional development finance institutions for on lending; cooperates with regional integrating institutions, promotes and facilitates the creation of regional capacity building institutions.

The Bank encourages and actively promotes the creation of a conducive environment to private sector led growth, development of domestic and regional financial and capital markets and stock exchanges, removal of nontariff barriers, implementation of intra-regional preferential agreements and the adoption of low common external tariffs.[liii] Though the Bank invests in regional institutions and infrastructure, it provides the impetus for increased trade and efficient utilization of productive resources. The Bank also assists the rationalization process by selectively encouraging those organizations that demonstrate their relevance to Africa's integration process. To this end, a transparent selection criterion will be outlined and disseminated in the context of the Bank's information disclosure policy. As a general principle however, the Bank does not confine its support to the existing regional organizations such as ECOWAS, WAEMU, SADC or COMESA. The Bank strives to encourage grassroots or informal institutions that facilitate and add momentum to Africa's integration process.

The Bank Group welcomes the contributions of other development partners, through bilateral and multilateral media, to the efforts of promoting economic cooperation and regional integration in Africa. The Bank strives to coordinate its integration - promotion activities with these organizations and institutions through joint programs and co-financing arrangements.[liv] For example, the UN, ECA, UNDP, the EU, World Bank and the IMF are already sponsoring a range of activities aimed at promoting economic integration such as strengthening the linkages between regional activities and policies at the national level, building managerial capacity, industrial and agricultural development programs, promoting "growth triangles" as integration mechanism amongst others.

On its part and in pursuance of its regional mandate, the AfDB has provided instruments for the provision of extensive technical assistance, policy advice and a range of knowledge products for regional integration and trade initiatives at regional and continental levels. The Bank has also provided extensive technical support to regional member countries and regional economic communities on approaches to building and strengthening regional cooperation, trade and economic integration including the processes leading to the establishment of an African Economic Community in the long run of the enforcement of the strategy.

The WAMA was empowered to ensure the monitoring, coordination and implementation of the ECOWAS monetary cooperation program, encourage and promote the application of market determined exchange rates for intra-regional trade, initiate policies and programs on monetary and economic integration and ensure the establishment of a single monetary zone in West Africa,[lv] with a single currency replacing the then existing ones (the CFA franc and line inconvertible currencies).[lvi] Aside the above there are other banks like, ECOWAS Bank for Investment and Development (EBIC)[lvii], International Monetary Fund (UNF)[lviii] and many more which will all be useful in the integration of West Africa economy.

CHALLENGES FACED BY FINANCIAL INSTITUTIONS IN THE ECOWAS SUB-REGION

Financial Institutions have been identified as the missing link in the West African integration arrangement and have been asserted to have critical and indispensable roles to play in the drive towards the realization of a common and integrated region guaranteeing the freedom of the movement of peoples, goods, capital, services and the right of residence. It has also been stated that these institutions have informally taken up the challenges of infusing themselves into the strategy without the requisite enabling legislation with a view to taking comparative advantages of the market windows available to them in then region, which had hitherto been taken by international financial institutions.

Even though the ECOWAS Treaty made no provision for the role of financial institutions in the economic integration of the sub-region, financial institutions with the support of ECOWAS member countries have pursued economic integration through the different laws establishing them. However, financial institutions have faced various challenges like the challenges faced by economic integration itself in the sub-region.

As evidenced by the theme of this research, there is no gain saying that the lack of a defined role for financial institutions in the legal framework in the West African integration scheme has remained at the heart of the reasons why the so much and so long awaited integration of the states of west Africa still remains a mirage. An evaluation of the treaty reveals a clear dearth of the provisions necessary to define and accord the respective financial institutions specific roles and parameters enough to accord them the formal intervention edge needed to facilitate the indispensable provision of funds and policy to finance and control the ambits of the integration scheme to its desired destination. This development has been largely responsible for the complacency that has been exhibited by the financial institutions in dealing with the issues of integration. As it stands today, the financial institutions take indiscriminate and unharmonized approaches in dealing with the issues of integration.

Another challenge faced by the financial institutions includes the non-implementation of a system of cooperation among ECOWAS member countries. One of such system of cooperation is in the area of a common customs and monetary union which will enable the sub-region to widen its market area and also help in the boost of strong currency, but this was not achieved and up to date, each member country of the sub-region still uses her own customs tariff as it is evident at the borders. Thus, trade within the community has not been stimulated[lix], and the way it goes, it has even shown a tendency to decrease. As trade decreases, so does the potential of the financial institutions to find fertile cooperative grounds of engagement.

A major challenge to financial institutions in the realization of their mandate in the economic integration of West Africa is the non-realization of a common Central Bank for ECOWAS. It is a known fact that the countries of Europe were able to achieve a common monetary zone because of the pivotal role being played by the European Central Bank (ECB) in the areas of monetary and economic policy coordination. The WAEMU countries were also able to achieve their current tempo of macroeconomic stability because of the sustained intermediation role played by the common Central Bank of West Africa States (BCEAO), which was established by the francophone countries of the sub-region. But in ECOWAS, it still exists in form not in reality; the mechanisms needed to achieve this are weak and the governments are not pro-active in this regard.

The issue of money laundering in the sub-region has remained a major challenge, for financial institutions in the west African sub region. It is deducible that every passing day, a huge amount of money leaves the region for other advanced and developed countries. These monies pass through some of these financial institutions, and are facilitated by leaders and governments of member countries. As a result of this, no proper hold is laid on these monies given the fact that most of the leaders and heads of these financial institutions are seen to be corrupt. In the face of the global economic crises, banks have continuously grappled with the issues of liquidity and indeed retention of their shareholders funds. This development was made worse by the characteristic investments in offshore portfolio that were made by our bank thereby running into losses beyond their expectation. This was no doubt reflected in the incessant takeovers, mergers and acquisitions that were witnessed in the global and sub regional financial sectors.

Another major challenge is the incessant conflicts, wars and unbridled violence, which weaken the sub-regions capacity for survival. No financial growth can be achieved in conflict-torn environments, and no investor would want to invest or risk his life savings on conflict-stricken areas.[lx] This has made it difficult for financial institutions to thrive. Naturally, no financial institution would operate in a crisis-ridden area as investments are jeopardized and initiation stifled in the achievement of set goals. Furthermore, it is discernible that the rate of crisis in the sub region has had its toll on the institutions of integration as the original concept of integration became thwarted with the major institutions of ECOWAS deploying time and resources to the crises-ridden areas as opposed to the original program of developing institutions and infrastructure. This resolution of wars and crises in the sub region has been rampant and preponderant leaving the core issues of integration at the background and therefore the windows for banking growth and development narrowed.

Another challenge faced by financial institutions is the irregularity in the mandatory payment of financial contributions to the budgets of the institutions by member countries.[lxi] This has forestalled the needed economic reforms to achieve macroeconomic convergence that is pioneered by WAMA, which was expected to create a single monetary zone for ECOWAS in 1992, but the target date has been shifted severally.[lxii]

The core issues of the freedom of movement of persons, capital, goods and services, including the matters of the right of residence, considered alongside the harmonization of customs tariff and its collection have been a major source of excitement for the financial institutions in the West African sub region. This dream has yet remained academic, as most financial institutions have been grappling with the sad incidence of informal trade between these countries in the sub region. In view of the definitive challenge in the treaty, and in view of the undeveloped nature of our trading practices, capital movement in the sub region is insufficient and hardly tracked as traders maintain the cash as opposed to the credit practices in the course of their engagements.

There is also an emerging trend militating against the growth and development of financial institutions in the sub region. This is the unfriendly and hostile attitude of countries hosting institutions from other sister countries. The scenario obtains where the hosting countries view the institutions as adversaries as opposed to being partners and in consequence compel them under local legislation to go through conditions that do not apply to other indigenous financial institutions. This is indeed at variance with the original spirit of integration and globalization. The unfortunate situation happens as a consequence of the fact that the hosting countries view the resident financial institutions as a sign of the domination of one country by another, thereby breeding mutual distrust, disrespect and stunted growth which does not promote the growth of our financial institutions.

In view of the lack of supra national institutions in the integration project and considering the complacency being exhibited by the ECOWAS itself, there has been the dearth of the necessary engagements between the Financial institutions and the ECOWAS commission. Our indigenous financial institutions have been most affected in this area. The ECOWAS rarely partners these financial institutions in the execution of its projects. It is worrisome that the ECOWAS finds more comfort in sourcing external institutions to partner with in the development and execution of projects within the region.

Without prejudice to the need to partner other institutions in the implementation of its development plan, the question that continues to agitate the mind is the non realization that involving these institutions on either individual or syndicate level will warrant our financial institutions the requisite strength, exposure, growth, expertise and indeed enable the satisfaction of a part of the original objective of the ECOWAS integration dream by according the benefits of the economies of scale and capacity.

Coextensive to the foregoing is the incidence the absolute and disturbing poor productive base of the sub region. Because of low productivity, funds are deposited with these financial institutions short term and at high cost. The consequence of the foregoing is that the banks have to in turn lend short term and at high cost. This incidence of the high cost of funds makes the financial institutions uncompetitive and therefore unsuitable for the kind and type of projects undertaken under the integration strategy. The fall side of this development is that international financial institutions quickly step in to take advantage of this apparent inadequacy on the part of these institutions. This unfortunate status quo puts the financial institutions outside a project that is aimed at enhancing its position as institutions of development and change.

It is further observed that the development of robust and viable capital markets serve as a veritable source of long term fund for the financial institutions for on lending to would be investments. The capital markets of the sub region are far from being developed and have a paucity of sleeping funds that would be taken by these financial institutions for the purposes of financing the humongous projects of integration as is being contemplated. On the other hand, the capital markets of the countries of the west have overtime developed to the prime, affording their financial institutions sufficient sources of funds at very cheap rates which are in turn on lent to would be development projects within their clime, including out competing our local institutions in dealing with the funding need of the West African integration program.

The foregoing scenario can be adequately addressed by legislation and political commitment on the part of leadership in the West African sub region. The issues of resource mismanagement, corruption and power conflagration have been largely responsible for the delay in the elimination of some of these ill. Except the productive base of the sub region, the manufacturing sector, the infrastructure and indeed the political will are clearly kept on the track, the financial sector which has the clear and desirable potential to take the integration to the next level will remain in the doldrums.

CONCLUSION

In concluding this work, it could be said that ECOWAS has major role to play in ensuring that investors are encourage within the region. If the suggestions made so far can be establish as enforceable policies in ECOWAS, we can say that the countries of the West African sub-region have been firmly set on the road to the fulfillment of their commonly held aspirations for greater effective cooperation and integration in inviting FDI within the region.

It is an expression of their awareness of the fact that in the present international economic system, no country will be able to stand-alone without FDI and collaboration from regions. The realities today require wider units of cooperation. Through ECOWAS, the irrationality of the national boundaries drawn up by the former colonial powers can be mitigated and corrected. Thus, in ECOWAS, the countries of West Africa have now found "a new future" in a world that is increasingly becoming small and independent.

A perfect example that Nigeria has minimally reduce the rate of loan, has open its doors for FDI, Nigerian law has made ample provision both for local and international arbitration.[lxiii] The Nigerian courts give due regard to arbitration agreements and will not hesitate to order a stay of proceedings to enable the parties explore the arbitration option as contained in their agreement.[lxiv] The Banks mentioned above can come together and encourage ECOWAS polices adopting some the policies in Nigeria.

REFERENCES

[i] *Nwolise, O.*, The Internationalisation of the Liberian Crisis and the effects on West Africa, *in Vogt, M., (ed)*The Liberian Crisis and ECOMOG, *p. 57*

[ii]UNCTAD Investment Policy Monitor 2014

[iii]African Development Bank (AfDB) "Regional Integration Brief" 2013<http://www.afdb.org/admin/uploads/afdb/documents/publication/regional_intergation_brief_intrad-sadc_cross-borader_investments.pdf> (accessed 25-05-2019)

[iv] General Agreement on Tariffs and Trade 1994, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organisation, Annex 1A, The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations 17 (1999), 1867 U.N.T.S 187, 33 ILM 1153 (1994) (hereafter "GATT")

[v] Sauvé "Multilateral Rules on Investment: Is Forward Movement Possible?" 2006 *Journal of International Economic Law* 325-355 and Buthe and Milner "Politics of Foreign Direct Investment into Developing Countries: Increasing FDI through International Trade Agreements?" 2008 52 *American Journal of Political Science* 741

[vi] Agreement on Trade-Related Investment Measures, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organisation, Annex 1A, The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations 143 (1999), 1868 U.N.T.S 186 (hereafter "TRIMs Agreement").

[vii] General Agreement on Trade in Services, April 15, 1994, Marrakesh Agreement Establishing the World Trade Organisation, Annex 1B, The Legal Texts: The Results of the Uruguay Round of Multilateral Trade Negotiations 284 (1999), 1869 U.N.T.S 183, 33 ILM 1167 (1994) (hereafter "GATS").

[viii] Agreement on Trade-Related Aspects of Intellectual Property Rights, April 15, 1994, Marrakesh Agreement

Establishing the World Trade Organisation, Annex l C, Legal Instruments - Results Of The Uruguay Round Vol. 31, 33 I.L.M. 1197 (1994) (hereafter "TRIPs Agreement").

[ix] Convention on the Settlement of Investment Disputes between States and Nationals of Other States, 1965 (hereafter "Washington or ICSID Convention").

[x] Convention Establishing the Multilateral Investment Guarantee Agency was established on 11 November 1985 at Seoul and it entered into force on 12 April 1988 T.I.A.S. 12089, 1508 U.N.T.S (hereafter "MIGA Convention")

[xi]Dr. Chambas " The Role of ECOWAS in achieving economic integration" <https://www.wilsoncenter.org/event/the-role-ecowas-achieving-the-economic-integration-west-africa> accessed 21st January, 2019

[xii] United Nations Economic Commission for Africa, Resolution 142 (viii), 145 (vii), Passed at its Seventh Session held in Nairobi, Kenya, February, 1965.

[xiii] United Nations Resolution Adopted by the General Assembly on the Declaration on the Establishment of a New International Economic Order. A/RES/3201 (s-vi)

[xiv] *Ibid*. A/RES/3202 (s-vi).

[xv]Saleh M. N. Op. cit.

[xvi] *Ibid*

[xvii] *Ibid*

[xviii] *Ibid*

[xix] *Ibid*

[xx]Gwa, Bridget. "The Effect of Credit Management in Commercial Banks. A case Study of First Bank of Nigeria Plc (Makurdi-Nigeria: Unpublished B.Sc. Thesis. Benue State University. 2008), Print p. 17

[xxi] "The Role of Banks and Financial Institutions in Economy" www.competitionmaster.com 22/08/2010, Web.

[xxii] *Ibid*

[xxiii] *Ibid*

[xxiv] *Ibid*

[xxv] This development appears to be in complete breach of the clear provisions of Article 3 of the ECOWAS treaty, which provides for the abolition of restriction on the free movement of people, goods, services, and capital including the right of residence and establishment throughout the sub region

[xxvi] Nigeria, Ghana, Guinea, Sierra Leone, Gambia and Liberia

[xxvii] Walton, R. and Asante R. D. Op. cit. P.1

[xxviii] *Ibid*, P. 5

[xxix]Itsede, C. Op. cit, p. 144

[xxx] *Ibid*

[xxxi] "The Role and Functions of the West African Monetary Institute (WAMI" www.wami.imao.org, 07/7/2019, web and Article 2(2.1) The Statute of the West African Monetary Institute

[xxxii] *Ibid*

[xxxiii] *Ibid*

[xxxiv]Itsede, C. op. cit. p. 138

[xxxv] Benin, Burkina Faso, Cote D'Ivoire, Mali, Niger, Senegal, Guinea-Bissau and Togo

[xxxvi] WAEMU <http//www.dfa.gov.za/foreign/multilateral/Africa/waemu.htm.web> accessed on 2nd May, 2019

[xxxvii] WAEMU from Wikipedia, the free encyclopaedia

[xxxviii] *Ibid*

[xxxix] WAEMU 2006-2010 Regional Economic Programme (REP) Summary Report, July 2006, p. 10

[xl] "West African Monetary Agency" <www. Amao-wama.org >Web 22/07/2019

[xli] *Ibid*

[xlii]Chukwunyere Nelson, S. African Development Bank: Catalyst for African Economic Growth, Development and Investment (Lagos: Wordsmiths Publishing Ltd. 2004), Print, p. 46

[xliii] *Ibid*, p. 47

[xliv] *Ibid* p. 48

[xlv] *Ibid*. P. 51

[xlvi] "African Development Bank" www.afdb.org, web 12/7/2019

[xlvii] *Ibid*

[xlviii]Saleh, M. N. Op. cit.

[xlix] African Development Bank – African Development Fund. "Economic Cooperation and Regional Integration Policy" February 2000. P.9

[l] *Ibid*. African Development Report, 1989

[li] *Ibid*. P. 10 African Development Report, 1993

[lii] *Ibid*

[liii] *Ibid*. 13

[liv] *Ibid* p. 17

[lv]Lavergne Real. (Ed) "Regional Integration and Cooperation in West Africa" Africa World Press, Inc. (International Development Research Centre Ottawa, Candada 1997 Print.

[lvi] *Ibid*

[lvii] The ECOWAS Bank for Investment and Development" www.bidc-ebid.org Web. (18/7/2019, 2.00pm)

[lviii] What does the international monetary fund do?"www.imf.org/external web 22/06/2019

[lix]West Africa and the future of Relations between the ACP countries and the EU. @ www.euforic.org/fes/3gb-tuh.htm, Web 20/04/2019

[lx]Mkwezalamba, M.M. and Chinyama, E.J. Op. cit. pp. 3-5

[lxi] *Ibid*. p. 5

[lxii]West Africa and the future of Relations between the ACP countries and the EU. Op. cit

[lxiii] Arbitration and Conciliation Act, Cap. 19 Laws of the Federation of Nigeria (1990).

[lxiv] Kano State Urban Development Board vs. Fraz Construction Co. Ltd. (1990) 4 NWLR (Pt. 142) 1 at P. 37.