

ECOWAS EPA: A ‘Funeral Oration’ to Regional Integration?

International political economy watchers, especially from West Africa and her sympathizers woke up a few weeks ago to discover that the European Parliament had suddenly given approval to the Interim (EPA) Agreement initialled by Cote d’Ivoire. This development startled and shocked ECOWAS citizens who have been waiting with great expectations for a time when the region would be united like the European Union (EU), as a regional entity. Ironically, majority of these spectators are the poor who were before now wallowing in the euphoria of an announcement by the ECOWAS Commission that the West African region was moving swiftly towards a political and economic integration of an “ECOWAS of peoples” as opposed to the present status of ‘ECOWAS of member states’.

Albeit, the state of affairs that is currently playing out on the EPA in West Africa rather calls for serious prayers and caution, on the side of ‘parties’ involved in the Agreement. The reason is that as it presently stands, there are serious indications that Ghana and Cote d’Ivoire, two of the region’s three non-LDCs may be on their way out of the regional EPA arrangement if the pressure to sign their interim agreements succeeds. Of a truth, Cote d’Ivoire has seemingly taken herself out of the regional EPA arrangement by its formal signing of her interim agreement since last February; while Ghana continues to be under serious pressure from the EU to sign her own.

Watching Cote d’Ivoire pursue WTO notification and review for her signed Agreement with so much vigour smacks of a covert purpose. Although she continues to allude to the need to protect her Cocoa, Banana and other agricultural produce export markets to the EU, as well as the need to secure EPA funds for the revival of her embattled, war torn economy, the grave implication of these acts for the conclusion of a regional EPA in West Africa is very worrying.

The foregoing concern is amplified when Ghana is seen from all indications, looking confused but desperate to secure her national economy which is far dependent on ODA (greater part of which comes from the EU), coupled with the hostile response of the present global economic crises which has aggravated inflation in the English West African country.

It is important to locate the implications of the foregoing as a fundamental element in designing the kind of approach that the EU and West Africa may have to adopt in reconsidering their path to the EPA vis-à-vis the future of the region’s integration. In clear terms, if the present scenario that has seen Ghana and Cote d’Ivoire still ‘dancing salsa’ with the EU is not reversed, and they walk their way to the charm of the alter, the major consequence therefore is that the originally envisaged full EPA in the region where all countries are on board the same flight is practically unattainable. If this is the case, then, the emphatic possibility is that there would not be any regional EPA in West Africa.

But in more specific terms, what implications would this presently evolving scenario in West Africa have on the region which has since 1978 been piloting a dream of one economic regionalism for which ECOWAS was created? The corollary is that this would undoubtedly throw a death blow at the face of the region which has special significance in the EU-ACP relationship, being the soil where the successive ‘Lome’

and 'Cotonou' Agreements that mid-wifed the EPA were agreed upon and signed by the ACP countries. Essentially, ECOWAS would then become the first casualty of EPA in terms of regional integration, and herein lies the potential 'obituary announcement' before the funeral of ECOWAS.

Before rejecting or consenting to this 'prophetic doom', it may be relevant to x-ray the situation on ground in terms of the current status of the EPA negotiations in West Africa and the premise on which the above prophecy is made, and reasons why it may need to be given serious considerations by the political class of ECOWAS and the European Union. One important hypothesis on which this prediction is founded is that for instance, most of the issues agreed upon by the two countries abovementioned in their interim agreements are either being re-negotiated by ECOWAS or are being rejected by some of her member countries under a regional EPA arrangement. Would it be possible for the EU to accept a far less deal or re-negotiation of areas and sectors/items that it had already secured 'a better deal' from these two 'heroic' countries? If the EU is so magnanimous to accept anything less, would they also be ready to take a look at the very many divergences that exist in terms of market access offer where West Africa is not prepared to go beyond a 60% liberalization? Is the EU ready to accept West Africa's assertion that the EU's commitment on the EPA must extend beyond 2020 expiration of the Cotonou Agreement? Would the EU also accept that this commitment be categorically spelt out in a potential regional EPA?

Furthermore, is it possible to have both parties reach an agreement on salient issues such as the separation of tax instruments from the text of the agreement, and contentious issues regarding the export and re-export taxes within the region? Would the parties agree on their divergences regarding Intellectual Property where the EU wants the inclusion of bio-technology licensing and ECOWAS declared 'a no go area'? Would the EU be ready to reconsider the controversy concerning the Services sector which they want to have immediate liberalization commitment from West Africa, and for which the West African party seeks to have three years period to properly evaluate her capacity and potentials before making commitments, even as some West African countries are not ready to go beyond their multilateral commitments on this sector? Is there any possibility of an agreement on Rules of Origin, especially with regard to cumulation and control of origin of goods between both parties?

Taking the questions further, how are parties working to solve the technical problems of linking the Sensitive products list with the recently adopted Common External Tariff (CET) and the 5th band of 35%? How are parties handling the Herculean task of aiding the harmonization of the CET with liberalization schedules, as well as the categorization of products under the tariff nomenclatures? How are parties working out solution to the issues of NTB and SPS in relation to paying remedies if there are risks/offences and for the provision of infrastructure such as laboratories for products testing and traceability which are not hitherto in existence in West Africa? Should such infrastructure be put in place before the dotted lines of an agreement is appended to and ready for implementation or should it be the other way round?

Indeed, what are the parties doing to ensure a proper interpretational articulation of GATT Article XXIV with regard to the extent and technical percentage of liberalization, the scope and schedule of liberalization and the modalities and

disciplines attached thereto? These are essential ingredients particularly in the light of the fact that ECOWAS appears to have adopted a 60% liberalization as a final bus stop. The offer is surely a pro-development and pro-poor option that should be applauded, but appears to have been chosen without recourse to the technical analysis earlier mentioned. Nonetheless, it is instructive to note that the EU reportedly rejected CEMAC's 70% liberalisation offer which is higher than ECOWAS's. Is there any meeting point foreseeable?

These several questions must also be answered in reference to, and within the context of the deadline of June 2009 reportedly agreed upon by the parties for the signing of a West Africa-EU EPA (although not cast in stone). It is only when clear answers are provided that the 'funeral' prophesied above may have to be averted. The connotation and the nuance of this forecast must be linked to the fact that there is an agreement in principle which commits both parties to set aside the interim agreements by the two West African countries when and only when a regional agreement comes on stream. The question then is, could there be a possibility of providing solutions to the aforementioned divergences, tasks and commitments to get a clear visibility of an agreement in the next one year, not to talk of few months? If that is not possible within the given time, would the EU be ready to wait for West Africa until the latter is able and ready to clear the mist for a comprehensive regional agreement? If this patience is not available from an EU that is very pragmatic in having the ACP countries keep with deadlines, and it rather chooses to push on with the present scenario, particularly concerning Ghana and Cote d'Ivoire, this would then signal a formal announcement of the obituary of ECOWAS!

Now, it must be noted that West Africa is the only ACP region where EPA is being negotiated by two regional Institutions, namely; ECOWAS and UEMOA. There have been several calls for a merger of UEMOA and ECOWAS, and some of us, in recognition of the giant strides of UEMOA in fostering economic integration of its eight member countries especially towards a Custom Union, had sincerely advocated that UEMOA be subsumed into ECOWAS to become the economic arm of the entire 15 member countries of West Africa. This has not received the needed blessing and political will from the West African leaders despite the legible hand-writing of the EPA on the region's wall. Be that as it may, Cote d'Ivoire is the only non-LDC in the UEMOA configuration of countries that are also political members of ECOWAS. Cote d'Ivoire domiciles more than 40% of the economy of UEMOA. Cote d'Ivoire has a good geographic location amidst the UEMOA bloc. Cote d'Ivoire serves as one of the important trade hubs for the region especially the UEMOA bloc and a centre for trade with the EU and other developed economies looking towards the Franco-phone West African axis.

With Cote d'Ivoire eventual signing of a unilateral EPA with the EU, what remains of, and what happens with the rest of UEMOA? Would this not be leading first, to a disintegration of UEMOA, given essentially that what remains of the bloc are LDCs who already have their EBA status and could just do with that? Notwithstanding and considering the legal provision which prohibits any member of UEMOA entering into a unilateral agreement with third-parties without the express 'permission' by her Commission, Cote d'Ivoire entered into an Interim EPA with the EU which brought about the current confusion. Stepping up further, with Cote d'Ivoire having signed an EPA and Ghana likely to do same, what would remain of West Africa in the equation

of trade and the location of integration within the region? The only thing remaining can only be a fairy tale of 'once upon a time'! Yes, and the story would continue to resonate, that: Once upon a time, there were efforts at promoting a regional CET, but that dream was shattered by the EPA! Once upon a time, entered the EPA and the dream of a Customs Union in West Africa was cut short! Once upon a time, the ECOWAS Trade Liberalization Scheme (ETLS) and its Protocol was unwittingly abolished when the turbulence of EPA could no longer be managed! Once upon a time, the Common Currency approach for the region aimed at fostering trade and economic integration was put in place but eventually struck down by the thunder of EPA! Once upon a time, since UEMOA and ECOWAS Commissions became redundant and almost irrelevant in the scheme of things courtesy of the disorganization brought about by the non-application and or implementation of the abovementioned regional frameworks and policies, the centre could no longer hold and consequently, things began to fall apart even in terms of political integration within the region called ECOWAS!.

In emphatic terms, if parties to the ECOWAS EPA do not give considerations to the future of West Africa, and in doing that, get prepared to give a push and even surrender some apparent legitimate positions, then, ECOWAS integration is already on the drifting board. If it is true that "to whom much is given much is required", then, the burden of this game of capitulation of positions lies more on the shoulder of the bigger party – the EU, who must appreciate the power and political dynamics of West Africa and her states that are always standing on the edge of gun powder ready to explode with crises at the slightest provocation. The whole world must understand that, for instance, if the UEMOA and ECOWAS Institutions are weakened by regional disintegration, the probability of political tensions capable of provoking crises in the region sparked off by the sharing of their assets is high and looming.

In addition, such disintegration would bring about a legal collapse of the Treaties that ab initio established the bodies. Multiplicity of regional trade regimes would be created in West Africa. The various Community sectoral frameworks and policies such as the Common Agricultural Policy - ECOWAP, Common Industrial policy, Common Investment Policy, Common Competition Policy, etc, shall all remain as vestibules to oblivion. Their efforts as well as the funds utilized in their design and promotion would forever go down the drain. As for the regional Institutions created out of the need for a healthy economic and prosperous West Africa (WA) such as ECOWAS Parliament, ECOWAS Court of Justice, etc, would also become irrelevant because apparently 'the child they came to nurse is dead'.

The consequences of these to the development of the WA region are terribly inexplicable. The Joint development efforts of the region are compromised. There would be negative consequences on the macro-economic indices of the region, as many would be turned to poverty, arising from the fact that intra-regional trade is even seriously inhibited and in disarray. The local industries can no longer find market within the shores where they previously had comparative advantage, and this would lead to a gradual decrease in production capacity and the nose-diving of the region's competitiveness at the global trade environment. The Impending death of these local firms is a direct invitation to influx of foreign goods, exacerbating capital flight, while weakening the employment and livelihoods of the poor within the region. Eventually, there would be increased protectionism leading to mistrust among the

hitherto countries of ECOWAS and a weakening of the bargaining power and voice of West Africa at other negotiating fora such as the WTO.

Having seen these challenges, one more honourable question is, can the Ivorian Parliament refuse the ratification of a unilateral EPA signed by the government of Cote d'Ivoire? Are there Non State Actors that can roll out the drums of popular peaceful pressure on the Parliament of Cote d'Ivoire to refuse ratification of signed agreement? Does the ECOWAS Treaty have with it or any of its existing Institutions any 'legal whip' to chastise for a penalty that can bring 'erring children' back to the family fold? Would the UEMOA Commission resort to gathering her other members to join Cote d'Ivoire to sign an EPA with the EU? Can the new government in Ghana become reluctant to sign a unilateral EPA with the EU, or call for a review of the their agreement and the one now signed by Cote d'Ivoire especially in the face of the newly found oil? While soothsayers and fortune-tellers are cleaning up their faces to provide answers to this future, it is also important to properly situate the possible reality.

In the context of all the questions raised herein and the context of the overall EPA equation in West Africa, the true crystal ball says; that there is one country, located at the heart of Africa, with a population of almost 150 million people that make up about two-thirds of West Africa, a political heavy weight which has more than 60% of the region's economy in her domain, the strongest country in terms of investment base, with her budget (unlike others) self-dependent and on less than 0.2% ODA, the only country in Africa which has only 2% of her banks as foreign owned (unlike many others that have up to 90%) and can therefore to a large extent comfortably resist pressures of the global economic crises; a country, having a voice that must be listened to at the regional political arena, with the capacity to quell crises in region with or without prior help of international agencies, the current Chair of ECOWAS, with potentials to diversify economic base and therefore not ready to sign any agreement that may jeopardise her dreams of becoming one of the 20 biggest economies of the World by 2020, - that country is called Nigeria.

The crystal ball again points to her direction as the saviour of the region in the face of the EPA. This country has done it before...and it can do it again! It would be recalled that at the wake of the post December 2007 deadline, when Ghana and Cote d'Ivoire gave in to separate interim agreements, ECOWAS's regional EPA focus was battered. It took the intervention of this country called Nigeria to bring back member countries to the negotiating table. Nigeria initiated an Accra meeting with Ghana and Cote d'Ivoire in the presence of ECOWAS officials to douse the tensions and suspicions that characterised and enveloped the air of the West African-EU EPA at that moment. It would also be recalled that prior to the deadline, when Nigeria was invited to Brussels by the EU for "a Special EPA package," which meant a unilateral arrangement, Nigeria was fast and bold to reject the offer. The same country – Nigeria – has remained a beacon of light in the propagation of a bottom-top approach in the EPA negotiations, towards ensuring that local dynamics and the vulnerable constituencies are part of decision making process in the negotiations, as was exemplified by the Sensitive Products identification process.

Nigeria has been facilitating the fast tracking of regional integration in West Africa with both financial provision and political will. Loved by the region's private sector

and civil society, but hated by those that are interested in the potential fortunes of the region, Nigeria provided protection to the region's economy with a 5th tariff band alternative of 50% and when the debate was hitting the roof, Nigeria also showed compromise by sacrificing her tariff from a height of 120% to as low as 35% in order to move the region forward. This country has been championing the cause of a development-oriented EPA in the region – a process that has brought about her pursuit for inclusion of development benchmarks and indicators in the EPA text.

It must be noted that as a mark of sacrifice for brotherhood, Nigeria's export trade to the EU has been operating on Standard GSP arrangement since the post December 2007 debacle, thereby inflicting excruciating pains of some sectors of the economy. This is despite the fact that the country has applied twice and has been rejected for the GSP+ arrangement based on political considerations of the EU. Yet, the country took it as part of the sacrifices essential in keeping the region within the union.

As West Africa gets confronted daily by outstanding tasks and unresolved issues in the negotiations, and sinks further into a confused state, it would be necessary to contextualize the staring position in recognition of the role that Nigeria could play in moving forward the EPA process and protecting the nucleus of integration in the region. Believe it or reject it, Nigeria still stands as the saving grace for regional integration in West Africa in the face of the EPA, and is being looked up to as one important leader by all the countries in the region. There are four possibilities and options available for Nigeria in the face of the current entanglement. One is that Nigeria could remain under the current GSP arrangement deciding not to go further than that since not much is being lost in consideration of her total export basket. Two is that while others are struggling in the state of confusion, Nigeria can still wait patiently for the next round of GSP+ application, clearing her way to being granted the status by 2010. Three, is that Nigeria can 'go solo' by adopting the South African TDCA method which would apparently mean towing the line of Cote d'Ivoire and Ghana. The fourth option is that Nigeria could gather the remaining 13 LDCs in West Africa and plan along negotiating a regional package with the EU, taking into account the peculiarities of the various countries in the marriage.

The above scenarios albeit, Nigeria still finds joy in ensuring that all member states of ECOWAS stay in the same train along this journey. In doing this, one of the things Nigeria has recently done which no other country has done is to take a look at the potential text of the ECOWAS-EPA with a view to providing pro-poor input thereunto. Nigeria is not producing a text of her own, as some people have erroneously thought or believed. Nigeria has no intent to negotiate a solo-agreement with the EU in the name of EPA for now. But what Nigeria is doing in the process is to influence and add a push to the process by providing the required leadership for ECOWAS to move forward to a pro-development EPA as directed by the Ministers of ECOWAS during the Nouakchott Ministerial which held in February last year after the famous December 2007 deadline.

All ECOWAS member countries, CSOs and private sector, the two Commissions of ECOWAS and UEMOA as well as the EU must buy into this project in good faith with a view to supporting the survival of West Africa. This is the time for the African Union to stand up in defence of one of her own; else, Africa would hear the song "Good night UEMOA! Good night ECOWAS! Good bye Regional Integration"!

While one appreciates the improved understanding and relationship existing presently between the EC delegation in Nigeria, the UK's DFID and the Nigerian authorities on the EPA dynamics, it is pertinent to however note that, if the present EU Trade Commissioner – Catherine Asthon was able to create time and travel to South Africa, seeking ways of resolving regional integration quagmires in realisation of the apparent bottlenecks to the EPA in the SADC region, one wonders why a visit to Nigeria was not and has not been considered necessary at such a time like this. Emphatically, on the path of ECOWAS, it is high time the authorities realised the need to strengthen partnership and collaboration with Nigeria to ensure that the regional focus on the EPA is sustained.

On a final but more serious note, it would be shameful to see ECOWAS go into shambles, and the fingers pointed at the European Union. The EU stands as the colonial (father) master to most of the member states of ECOWAS. Therefore, the EC and her member states must work and cooperate with Nigeria and her neighbours towards providing all necessary assistance required in keeping the region as one. The gospel truth of this article is that if the lamentations of this requiem eventually come to pass over ECOWAS, head or tail, the integrity of the EU is at stake. The wisdom here therefore is that, 'a stitch in time saves nine', and importantly, "one should avoid the murder of a man whose funeral he must attend!"

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