

The ECOWAS Trade Liberalization Scheme

Myth or Reality?

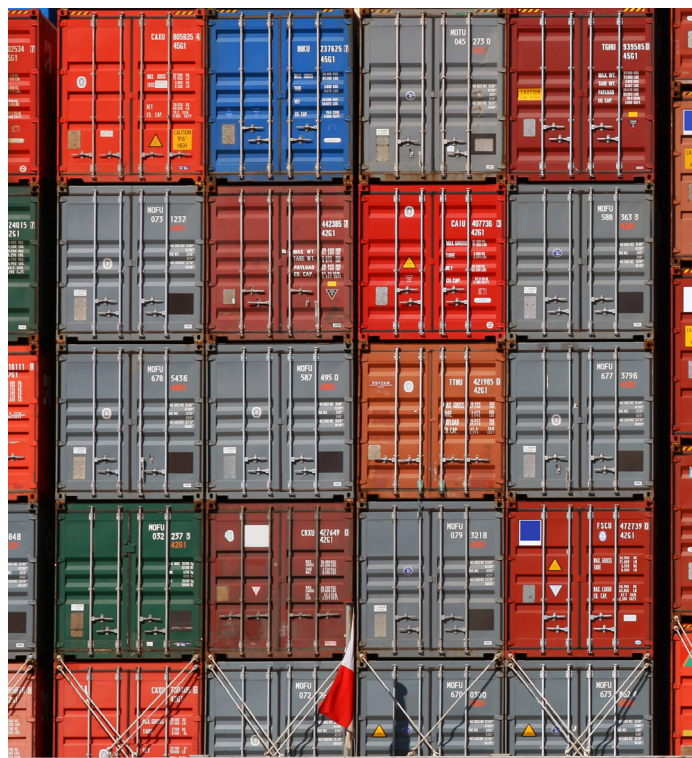
In 1979, the Heads of State and Governments of the Member States¹ of the Economic Community of West African States (ECOWAS) established the ECOWAS Trade Liberalization Scheme (ETLS)² pursuant to the overarching objective of promoting co-operation and integration among Member States.

The aim of the ETLS was to establish a free trade area where enterprises of Member States may move goods within the ECOWAS bloc without paying duties and levies. However for so long, the operational effectiveness of the ETLS has been called to question. Specifically, several enterprises who have tried to leverage the ETLS have noted that the scheme only works on paper and is essentially ineffective. Enterprises of Member States have therefore assumed that the ETLS is a myth and so design export strategies to include payment of duties and levies.

Deloitte and the Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture (NACCIMA) recently organized a workshop to evaluate the realities of the ETLS. In attendance at the workshop were representatives of the ECOWAS Commission (EC), Federal Ministry of Foreign Affairs³ (FMFA), the Nigeria Customs Service (NCS) and members of the private sector. This workshop sought to demystify and unpack the ETLS in all its ramifications so that intended beneficiaries may be able to make more effective application of the scheme for the purposes of their businesses and thereby improve bottom line performance.

Thus the main issue addressed at the workshop was whether or not the ETLS is a reality.

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To adequately respond to this question, the following information as distilled from the workshop becomes relevant:

- i. The ETLS has not been repealed and Heads of State and Governments of the ECOWAS Member States have not formally communicated an intention to withdraw from the scheme. Against this backdrop, goods which are determined to be community originating goods⁴ may be traded duty and quota free within the ECOWAS bloc;
- ii. There is low awareness of the ETLS. This is so much so that the supply chain functions of some large businesses have not heard of the ETLS;
- iii. Notwithstanding ‘ii’ above, there are bottlenecks around the ETLS which have made the scheme unpopular and largely unknown. Based on the experience

of some businesses, only large businesses who are financially and operationally resilient may ultimately succeed in leveraging the ETLS. Some of the bottlenecks which businesses have faced whilst implementing the scheme include:

- long delays in obtaining a Certificate of Origin (CoO) from the National Approval Committee⁵ upon submission of an application;
- refusal by customs agencies of some Member States to honor valid CoOs;
- where valid CoOs are honored, delays by the customs agencies of Member States in facilitating the clearance and transit of goods to the next border crossing⁶;
- customs agencies of some Member States validating CoOs at a national level instead of vide the EC who would be able to confirm legitimate CoOs. These member States therefore delay the entry of goods until such

validations have been done⁷. In practice, businesses who are unable to wait for the completion of such validations end up making non-refundable payments of duties and levies as though the goods were imported from third countries.

- iv. There are Nigerian businesses who have and are currently benefitting from the ETLS. Specifically, there are some Nigerian businesses (mostly large corporates) who are currently exporting – duty and quota free, locally manufactured products to over 350 million people within the ECOWAS bloc;
- v. Nigerian businesses and products remain the biggest beneficiaries of the scheme within the ECOWAS bloc;

The ETLS is not a myth but an operational tool for duty and quota free trade within the ECOWAS bloc, regardless of some severe challenges that still exist. Whilst a big part of the blame for the uncertainties around the scheme rests with the EC and Member States, it is believed that some blame must be placed squarely on the private sector.

In particular, it is noted that many intending users of the scheme either do not understand the technical requirements of the scheme (thus leading to the delay/rejection of a CoO application) or do not understand their rights when challenged by customs agencies at the various borders within the ECOWAS bloc.

It is therefore imperative that those responsible for designing and implementing the supply chain strategies within their businesses – small or large, must take urgent steps to understand the provisions of the ETLS and perhaps seek expert help when in doubt.

Furthermore, businesses who are yet to leverage the ETLS (and can do so) must begin to consider their comparative

advantage over those businesses (from member States or third countries) who cannot leverage the ETLS.

With Morocco seeking to be admitted into the ECOWAS bloc, intended beneficiaries within ECOWAS must wake up to proactively evaluate the benefits of the ECOWAS treaty and its relevant protocols and take position ahead of a potential pool of new market entrants. The sage wisdom is for the husbandman to be first partaker.

¹This is made up of the following fifteen countries - Republic of Benin, Burkina Faso, Cape Verde, Cote D'Ivoire, the Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo

²The ETLS is akin to popular multilateral free trade agreements currently in operation around the world

³The Federal Ministry of Foreign Affairs is the supervising agency for the ETLS in Nigeria

⁴These are goods which meet the concept of products originating from ECOWAS Member States as defined in ECOWAS Protocol AP/1/1/03 of 31 January 2003

⁵This is a committee set-up in each Member State to evaluate applications for CoOs

⁶The scheme therefore becomes ineffective for enterprises whose goods have a short shelf life or are perishable

⁷In practice, the EC requires that Member States accept bonds (to the value of the applicable duty and levies) from these enterprises pending a validation of the CoO. Where the CoO is determined to be fake, the Member States liquidate the bonds. However, where the CoO is determined to be original, the Member State does not make any claim to the bond.

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