ECOWAS VANGUARD
....Issues for an ECOWAS of peoples
Volume 2 Issue 2, Dec. 2012
NANTS Regional Trade Advocacy Series

THE ECOWAS COMMON EXTERNAL TARIFF (CET) AND REGIONAL INTEGRATION

ECOWAS can Facilitate free flow of goods through a Customs Union.

1.0. INTRODUCTION

A Common External Tariff (CET) is a basic feature of the Customs Union as a form of economic integration. All the countries in a customs union abandon the individual tariff structure with which they trade with other countries and adopt a common external tariff in trade with third countries. The same customs duties, import quotas, preferences or other non-tariff barriers to trade apply to all goods entering the area, regardless of which country within the area they are entering. It is designed to end re-exportation, but it may also inhibit imports from countries outside the customs union and thereby reduce consumer choice and support protectionism of industries based within the customs union. In addition to having the same customs duties, the countries may have other common trade policies, such as having the same quotas, preferences or other non-tariff trade regulations apply to all goods entering the area, regardless of which country within the area they are entering.

In Africa, three major regional economic groups already have a CET. The UEMOA group made up of 8 francophone West African Countries has a 4 band CET: 0, 5, 10, 20%; the CEMAC group of 6 Central African countries has a 4 band CET of 5, 10, 20, 30%; and the COMESA group of 20 East and Southern African countries has a 4 band CET of 0, 5, 15, 30%. Clearly, the CET structure adopted by the UEMOA countries is the least protective of domestic enterprises as it offers less nominal protection to the intermediate and finished consumer's goods in West Africa. This is surprising as it is not the case that agricultural and manufacturing activity in the West African sub-region is more concentrated or more efficient than in the other African sub-regions as to justify this lower protection.

2.0. The ECOWAS Common External Tariff (CET)

Trade is an instrument of harmony among communities.

The ECOWAS CET is one of the instruments for harmonizing the policies of ECOWAS Member States and strengthening its Common Market. Article 3 of the ECOWAS Revised Treaty defines the aims of the community as promoting "co-operation and integration, leading to the establishment of an economic union in West Africa ...." In order to achieve this, the community is to ensure, in stages, among other means, the establishment of a common market through "the adoption of a common external tariff and a common trade policy vis-à-vis third countries..."

To this end, the ECOWAS Heads of State at their 2001 summit required member states to harmonize their import tariffs with the existing UEMOA Common External Tariff adopted by 8 francophone member states in 1998. It is aptly thought that a Common External Tariff with a common nomenclature is highly desirable so that Customs procedures are transparent, readily followed and delays at borders decreased, thus achieving a key mile-stone in achieving the ECOWAS Customs union.

2.1. Legal Mandate of the CET

The legal mandate for the CET derives from the following:

I. Art. 3 of the ECOWAS Revised Treaty which states clearly that one of the main objectives for the creation of the Community is the establishment of a Common Market through trade liberalization and the adoption of a Common External Tariff (CET).

ii. Decision A/DEC.17/01/06 of the 29th Session of the Authority of Heads of State and Government which adopted the ECOWAS CET for ECOWAS Member States.

Published by:
NATIONAL ASSOCIATION OF NIGERIAN TRADERS [NANTS]
With the Support of German Agency for International Cooperation- GIZ

iii. ECOWAS Regulation C/REG.1/5/09 which provides that ECOWAS CET is supposed to be based on the Harmonized System (2007).

Article 3 of the ECOWAS Revised Treaty, as earlier noted, indicates that one of the main objectives for the creation of the Community is the establishment of a common market through trade liberalization and the adoption of a Common External Tariff. Consequently, the Authority of Heads of State and Government, at its 29th session, adopted the ECOWAS CET for ECOWAS Member States vide Decision A/DEC.17/01/06.

From Left: President, ECOWAS Commission, Mr. Kadre Ouedraogo; Chairman, ECOWAS Authority of Heads of State and Government (EAHSG), President Alassane Quattara, and Nigeria's President Goodluck Jonathan, during an extra-ordinary session on the EAHSG in Abuja.

At the 29th Summit of the ECOWAS Heads of State and Government held on 12th January, 2006 in Niamey, two important decisions were taken regarding the implementation of the ECOWAS CET. The first decision was in respect of the implementation of the ECOWAS CET with effect from 1st January 2006. The decision provides for the adoption of a four-band tariff structure made up of basic social goods (category 0) attracting an import duty of 0%; basic essential goods, raw materials, capital goods and specific inputs (category 1) attracting an import duty of 5%; intermediate goods (category 2) with an import duty of 10%; and finished goods (category 3) with an import duty of 20%.

The decision also provides for a number of taxes as part of the CET, including the community levy, the statistical tax and certain accompanying measures. It was decided that the period January 1, 2006 to December 31, 2007 would serve as a transitional period for the implementation of the ECOWAS CET, leading to its coming into full effect from January 1, 2008.

The second decision concerns the creation, organization and functioning of the Joint ECOWAS/UEMOA Management Committee of the ECOWAS Common External Tariff. The Authority of Heads of State and Government also approved the establishment of an ECOWAS/UEMOA Joint Committee for the management of the ECOWAS Common External Tariff (CET). The Joint Committee, which comprises representatives of Member States and the ECOWAS and UEMOA Commissions, is to give advice to ECOWAS and UEMOA Commissions on all issues relating to the management and monitoring of the CET. The main responsibility of this Committee is to provide advice to the ECOWAS and the UEMOA Commissions on all matters relating to the management and monitoring of the ECOWAS CET. The Committee will also conduct negotiations on the type B exceptions, involving products for which the Member States, the ECOWAS and the UEMOA Commissions are requesting tariff re-categorization.

ECOWAS Commission Secretariat in Abuja.

3.0. Structure of the ECOWAS CET

Faced with the challenges and pressure of concluding the EPA with the European Union, close to five years after the 2001 summit, the Authority of Heads of State and Government of ECOWAS during their 30th session held in Niamey in January 2006 observed that not much had been done by member states in regard to the re-categorization and harmonization. They consequently adopted a fast track process for the CET harmonization in line with the UEMOA rate. The decision established the ECOWAS-CET which draws on the basic UEMOA CET composed of four tariff bands, or rates of customs duty.

3.1. Tariff Categories

The UEMOA CET features four tariff categories with rates at 0% for essential social goods, 5% for essential/basic raw materials, capital goods and specific inputs, 10% for intermediary products, and a peak tariff rate of 20% for final consumer goods. The un-weighted average Tariff Rate (ATR) is 12.1%.

Apart from the above highlighted rates, the January 2006 decision of ECOWAS Heads of State provided for specific protection instruments additional to the customs duties, such as the regressive protection tax, the special import tax and safeguard measures to make up for the inadequate taxation of some products.

Is high tariff favorable for the West African economy?

The decision further made provision for a two-year transition period (1st January 2006 to 31st December 2007) to enable non –UEMOA countries to adapt to the new tariff policy (Type A exceptions) and to pursue the negotiations with a view to reaching agreement on the re-classification of some products as requested by the non-UEMOA countries (Type B exceptions). Entry into force was targeted at 1st January 2008.

3.2. Types A and B Exceptions

In accordance with Article 11 of Decision A/DEC.17/01/06 of the Authority of Heads of state and Governments adopting the ECOWAS CET, Type A exceptions cover products that member states accept to align with the base tariff. Member states are expected to have incorporated these into their national tariffs. However, Type B in accordance with article 12, relate to products that member states seek tariff re-categorization. This is to be done through negotiations. Negotiations for product re-categorization in respect of type B exceptions began in 2006.

3.3. Nomenclature

In accordance with ECOWAS Regulation C/REG.1/5/09 of 27th May 2009, the ECOWAS Common External Tariff (CET) is supposed to be based on the 2007 version of the Harmonized Commodity Description and Coding System or the Harmonized System nomenclature.

A 10-digit tariff nomenclature based on HS 2007 was developed as the basis for the ECOWAS CET. This was validated by the 9th session of the Joint ECOWAS-UEMOA Committee for the management of the ECOWAS CET in August 2010. With the introduction of the latest version of the HS (HS2012) by the World Customs Organization (WCO) on 1st January 2012, there has been a successful migration of the ECOWAS tariff nomenclature from the 2007 version to the 2012 version of the HS. Member states such as Ghana and Liberia who have already migrated to HS2012 have done so on the basis of the ECOWAS CET nomenclature.

4.0. Economic Implications of the CET

Economically, there are potential and real benefits that can result from the formation of a Custom Union (CU). The more intense degrees of coordination and interaction associated with forming a CU can foster trust and familiarity among the parties and may even decrease the risk of conflicts, as has been the case with the European Union (EU). Also, the fact that the external tariff is agreed with other parties through a legal agreement may help reform-minded governments lock in their trade policies and can shelter them from domestic lobbies as is the case with Nigeria in the ECOWAS framework in the light of unilateral and concessional granting of waivers and the use of import bans and prohibitions on certain items at the lobbying request of certain economic actors especially with political connections with the government of the day.

4.1. Tariff Adjustments


Food production, job and income opportunities in agriculture can be boosted through a Common External Tariff.

The key difference between a CU and a Free Trade Area (FTA) is the need to adjust the tariff structure applied to third-party suppliers, at least for some members. Countries that join an FTA are not required to change the tariffs they apply to imports from the rest of the world. What will differentiate the effects of a CU from those of an FTA will be the extent to which the external tariff is increased or decreased by a given member with respect to a given good. The net economic effect of a CU crucially depends on how the adjustment of the external tariff affects the degree of discrimination vis-à-vis non-member countries.

In order to illustrate the potential economic impact of a CU, it is important to assume that an FTA like the ETLS in ECOWAS is already in place (i.e., trade is already liberalized among the partners) and member countries are considering establishing a customs union by harmonizing their external tariff duties. For the purpose of analysis, let's assume that two countries e.g. Nigeria and Togo are members of an FTA and have decided to form a customs union. Without loss of generality, it will be further assumed that, for a particular good, say Pharmaceuticals, Togo has a low tariff and Nigeria a high one.

4.2. Industrial Protection versus Consumer Welfare

Two possible cases are relevant and are examined here. One possibility is that the agreed common external tariff (CET) leads to a higher tariff rate for a given CU member (say, Benin).

The bloc's degree of discrimination is thus enhanced. This usually happens when a less advanced member has to implement a CET aimed at protecting the industries of a more developed member. In this case, consumers in Benin Republic will lose because they have to pay higher prices for imports from the rest of the world or switch to less efficient suppliers from Nigeria. Despite the higher external tariff, the government in Togo could collect less tariff revenues if the higher degree of discrimination leads to a greater propensity for switching the sourcing of imports to duty-free, Nigerian suppliers.


Improved competition ultimately improves consumer welfare.

Producers of the good in Togo face less competition from the rest of the world but more competition from Nigeria. In fact, the adoption of a high tariff by Togo effectively extends the protection received by Nigerian producers to Togo's markets. Nigerian producers may be the only ones to gain from the CU in this scenario. In some cases, and in a more dynamic setting, the expansion of the protected market may lead to some tariff-jumping types of investment in the customs union, motivated by the prospect of taking advantage of the larger, more protected market.

It must be stated that this scenario has been largely responsible for the observed delay in the conclusion of the CET negotiations where the consumer welfare in some UEMOA countries are been guarded against the protection of producing industries in countries like Nigeria.

Joining a CU may offer a second possibility to consolidate the existing tariff schedule and adopt a more liberal trade regime. If the establishment of the CU yields a CET that is lower than the pre-CU tariff (say, in Nigeria), the potential for trade diversion is reduced or even reversed, and this is because there is less potential for switching suppliers. The discriminatory aspect of the FTA is, in a sense, diluted in this case. Starting from an FTA situation, a decrease in Nigeria's external tariff would have two effects, both working in the same direction. First, the liberalization will directly increase Nigeria's imports from the rest of the world (trade creation).

Second, since it effectively dilutes the existing preference margin, it will reduce the attractiveness of sourcing from Togo relative to sourcing from the rest of the world (less trade diversion). By reversing the trade diversion caused by the FTA (i.e., by inducing consumers to switch from less efficient suppliers in Togo to more efficient ones in the rest of the world), Nigeria's tariff reduction will benefit its consumers. It could also help increase government revenues as dutiable imports from the rest of the world expand (albeit at lower tariffs) and as Nigeria shifts to dutiable imports and away from duty-free imports from Togo.

4.3. CET and Third Party Traders

The negative side of this scenario however, is that domestic producers in Nigeria will face more competition from non-members and there may not be any tariff-jumping investments especially from the rest of the region as it pays better to just import from the rest of the world since there is lower tariff than the pre union rates.

The question then is what should drive the CET? Consumer welfare or increased local production! Consumer gains resulting from lower prices and the potential higher tariff revenue from more imports are always weighed against the probable increased production from less efficient local producers especially when they are faced with daunting infrastructural challenges as a result of the level of development of the operating economies.

In the actual implementation of a CET, an individual CU member will generally have to increase its external tariffs on certain products while decreasing them on others. The overall impact will depend on the balance. The complex realities in the ECOWAS sub region have further complicated the process of agreeing on the CET.

5.0. Nigeria and the CET

In giving effect to the decision of the ECOWAS Authority of Heads of States, the Federal Government of Nigeria had as far back as February 2004 announced her intention to comply with an ECOWAS CET but made provision for a 30% special tax to offer temporary protection to selected products of domestic industry. The special tax as announced was to be phased out in 3 or 4 years.

In addition, the Government of Nigeria prohibited imports of some products. But more importantly, it would further be recalled that Nigeria demanded for the creation of a fifth tariff band of 50% as an addition to the existing UEMOA rate. This request was made when Nigeria which made a political commitment to align with the UEMOA CET realized that such commitment was made without due recourse to technical analysis in terms of research, or prior consultations with stakeholders including relevant sectors of the economy such as the manufacturers, farmers, traders and other private sector organizations.

ECOWAS VANGUARD
....Issues for an ECOWAS of peoples
Volume 2 Issue 2, Dec. 2012

Where is the position of manufacturers and farmers in the CET?

It was upon the realization of the fact that the UEMOA tariff rate is not protective of a young and aspiring economy like Nigeria with her prospects and plans for industrialization; and, coupled with the loud cries from the Nigerian stakeholders, the Nigerian government officially applied for the creation of the fifth band. The call for a fifth band immediately gained the support of prominent private sector and civil society organizations in West Africa. Unfortunately, while discussions were ongoing at that time, the request made in good faith by Nigeria appeared to have snowballed into controversies of some sort as some countries in West Africa expressed some cold war and silent rejection of this appeal. Notwithstanding, a fifth band at 35% was eventually adopted.

Bands of the ECOWAS Common External Tariff (CET)

S/N	Categories	Percentage of Duties	Description of Goods
1	0	0%	Essential social Goods
2	1	5%	Goods of primary necessity, raw materials and specific inputs.
3	2	10%	Intermediate goods.
4	3	20%	Final Consumption goods.
5	4	35%	Specific goods for economic development

6.0. ECOWAS CET: The State of Play

Technically, negotiations for product re-categorization have already ended. The joint ECOWAS-UEMOA committee for the management of the ECOWAS CET has met 11 times to approve the categorization of products into the respective tariff bands resulting in the development of a draft common external tariff with a validated regional nomenclature based on the 2012 version of the Harmonized System nomenclature. This draft tariff is being fine-tuned by the Commission to ensure that the region stays within the relevant requirements of GATT relative to the formation of Customs Unions. The Commission has also held preliminary discussions with the WTO Secretariat and other missions (including the Nigerian mission) in Geneva on the ECOWAS CET to ensure its compatibility with the provisions of WTO and ensure that member states tariff commitments within the multilateral trading system are taken into account.

The relevant safeguard measures and trade defence instruments particularly in the areas of anti-dumping and countervailing measures have been drafted to accompany the implementation of the CET in the region. Steps are also underway to develop an appropriate mechanism to monitor the implementation of the tariff in member states.

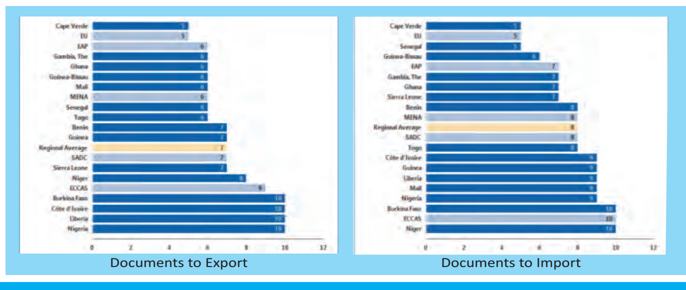
The draft tariff and relevant safeguard and accompanying measures was submitted to 12th session of the Joint ECOWAS-UEMOA Committee for the management of the ECOWAS CET in December 2012 for discussions after which the CET will be put before the ECOWAS decision making process (Council of Ministers).

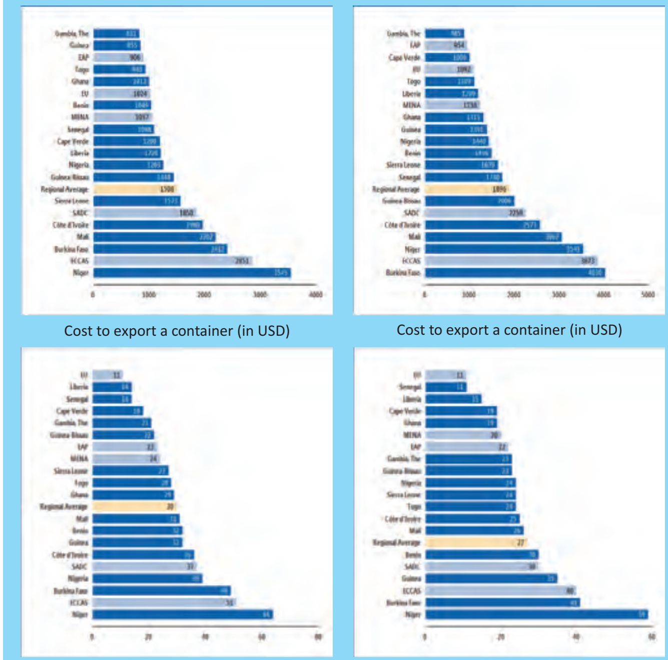
6.1. Harmonization of Customs Laws and Clearance Procedures:

Understanding goods clearance procedure requires proper interpretation of trade laws

A casual look at the sub-regional platform for Customs clearance processes reveals that member states currently differ significantly in the Customs clearance procedures and the regulatory structures for trading across borders. Many states are investing in huge Information Technology (IT) infrastructure for cross border trade while others are not. Some employ the services of third party service providers to deliver valuation and risk management processes while others carry them out with their own Customs services. The varying degrees of ease of trading across borders have been captured by the Doing Business Report 2012 of the World Bank where countries of West Africa rank differently. This is an indication that for the purpose of trade facilitation, there is a lot of work yet to be done at the regional level to harmonize processes in order to have that desired Customs Union that the adoption and implementation of the CET is supposed to achieve.

In addition, attempts are being made to move to regime of Single Window Clearance process in some countries of the sub region like Senegal and to a lesser degree, Ghana with the adoption of home grown IT systems that are significantly different from the prevalent ASSYCUDA system in the rest of the region. With differentials in Customs clearance procedures and Customs documentations, the simultaneous harmonization of these processes is necessary to achieve an implementable Customs Union. Some results from the World Bank doing business reports for West Africa are shown in the figures below:





Cost to export a container (in USD) — Cost to export a container (in USD)

Time to import (days) — Time to export

The differentials noticed in the reports shows that all attempts at achieving a CET without a corresponding attempt at harmonization of trading across borders practices, will only lead to further issues relating to trade deflection which was supposed to be eliminated by the emergence of a CU in West Africa.

6.2. ECOWAS CET Road Map to 2014

Following the meeting of the Joint ECOWAS-UEMOA CET Committee meeting held in Abidjan (12 – 14 December, 2012), the following Road Map was adopted:

I. Finalization of the draft text on the Regional Integration Community levy (RICL) in the first quarter of 2013;

ii. An expert Meeting of the Technical Committee on Trade, Customs and Free Movement (TCTCFM) in the first quarter of 2013 to adopt the ECOWAS CET;

iii. Meeting of the Ministers of Finance after the meeting of the TCTCFM in the first quarter of 2013 to ratify the ECOWAS CET;

iv. Finalization of draft texts on trade safeguard measures and availability to countries in the first quarter of 2013;

v. Adoption of the ECOWAS CET by the ECOWAS statutory Council of Ministers in May/June 2013;

vi. Adoption of Supplementary Act on the RICL by the Authority of Heads of State in June 2013;

vii. ECOWAS CET Information, sensitization and public awareness mission to Member States by the two Institutions from July to December 2013; and

viii. Entry into force of the ECOWAS CET from 1st January 2014

7.0. Issues Arising from the current ECOWAS CET

Although there seem to be an understanding among public sector officials across West Africa on the creation of a 5th Band at 35%, it must however be noted that from a private sector perspective, anything less than the earlier 50% requested by Nigeria is insufficient to support her industrialization plans and the attainment of her Vision 20:2020 objectives. This is best understood in the context that Nigeria presently constitute about 60% of the West African industrial base and as such is most susceptible to harm resulting from unduly low tariff marks and unbridled level of imports into the country. Apart from this, the adoption of the CET at the current 35% will pose some serious challenges for Nigeria and the West African regional integration process as follows:

ECOWAS must increase local production.

7.1. Effect on Production and Competitiveness

The current CET structure is insufficiently protective of domestic enterprises as it offers less nominal protection to the intermediate and finished consumer goods in the sub-region. Nigeria's promising industrial capacity would be most hit by the lowering of tariffs to 35% from a high of 150% only few years ago. Prior to the introduction of the CET (which Nigeria has already adopted in its tariff book), some raw materials attracted 2.5% in Nigeria. But today, with the pegging of raw materials at 5% under the CET regime, the duty on raw materials has been increased by 100% as raw materials hitherto enjoying 2.5% will now attract 5%.

As already implied above, other ECOWAS countries do not have manufacturing base of any significance from which Nigeria can benefit. By the same token, Nigeria cannot benefit from the assumed wider ECOWAS market as it will not have any special advantage by way of duties. Under the proposed dispensation, products from all countries, developed nations and Nigeria included, will attract common duty at the same rate. With cost disadvantage of 40% Nigeria will not be in a position to compete with other countries in these markets. A glimmer prospect is the fact that such low tariff structure in the region may see European, Chinese and Far Eastern exporters open ports in neighbouring ECOWAS countries and through them, export to Nigeria, taking advantage of ECOWAS Trade Liberalization Scheme (ETLS) at near zero duty thereby circumventing the CET.

It is noteworthy that there is no provision for completely knocked down (CKDs) in the proposed ECOWAS CET, since there are no assembly lines for motor vehicles, motorcycles, and bicycles, and other machine-driven equipment in other ECOWAS member states. Consequently, this makes the process of wholesale adoption and harmonization of the CET extremely difficult for Nigeria whish has CKD provisions in her tariff book. In view of the fact that the other member states failed to or have not appreciated Nigeria's special circumstances, it may be challenging concluding the ECOWAS CET, unless Nigeria is ready to give up CKD in her tariff book.

7.2. ECOWAS-UEMOA Relations

The subtle supremacy tussle between ECOWAS and UEMOA has continued to rear its ugly head, even within the context of the negotiation of the CET. UEMOA has stoutly led opposition to the adoption of a sufficiently protective 5th band for the ECOWAS CET. For whatever reason, it is obvious that the recognition of both ECOWAS and the UEMOA as co-drivers of the regional integration efforts in West Africa is more problematic than with any gains. The right and indeed the just thing, is to take a bold step to convert UEMOA to a Department of ECOWAS Commission, perhaps as the economic department of ECOWAS. There is no justification for having UEMOA which houses eight West African countries which are also members of the regional body – ECOWAS.

For the ECOWAS CET, Nigeria appears to have had a lot of understanding. Considering that a country which has been operating a tariff height of 150% is tasking herself to descend to 50% 0nly, all for the sake of maintaining the brotherliness and good neighbourhood; considering also that this is a country that has publicly documented announced her development agenda (NEEDS) and vision of becoming one of the 20 biggest economies of the World by 2020 (an aspiration that requires the support of her brothers in the region even for their potential good); considering further that this same country has been and has continued to sacrifice for the peace, security and development of the sub-region; then, there should be a greater understanding from the Authorities of the region in this matter.

7.3. Implications for Multilateral Negotiations

Nigeria is currently involved in the Doha Round negotiations at the WTO which among other things seeks further reduction in industrial tariffs. As a matter of strategic interest, Nigeria should seek some synchronization between a regional CET and its obligation at the WTO to avoid conflicting trade interests. Once Nigeria crashes its tariff to a 35% low and bounds it in a regional CET, it will be difficult to maintain different highs of tariff at the WTO level, thus opening up its economy to massive imports from all other WTO members. In dismantling tariffs, Nigeria should keep an eye on developments at the Doha Round negotiations, particularly taking a cue from developed countries refusal to withdraw agricultural subsidies and other forms of protection for their farmers even in the face of the collapse of the negotiations. Resisting the fast rate of tariff reduction is a legitimate strategy in a negotiating process. National interest should clearly inform the basis upon which concessions are made during negotiations.

8.0. Nigeria in the CET Adoption Process

Nigeria has made tremendous progress in the adoption of the CET. It is on record that although the implementation of the CET could not take off in July 2005 as initially planned, however, the tariff regime of Nigeria for the 2008 – 2012 incorporated substantially the 'new CET'. At present, Nigeria's new Tariff Book for 2012 – 2016 is also incorporating the CET (although, presently undergoing consultative process with key stakeholders). The highlights of the new CET tariff structure that Nigeria proposes are as follows:

i. The reduction of the number of tariff bands from 20 to 5;

ii. The introduction of new tariff bands of 0%, 5%, 10%, 20% and 35% (formerly 50%);

iii. Raw materials, machineries and equipments, capital goods and other necessities which are not produced in Nigeria (e.g. anti-retroviral drugs for HIV/AIDS patients) will attract tariffs of 0% or 5%;

iv. Industrial machinery will attract 0% duty rate for one year after which the impact will be reviewed;

v. Intermediate goods will attract a tariff of 10%;

vi. Finished goods will attract a tariff of 20%;

vii. Finished goods in industries which government wants to protect will attract a tariff of 35% (formerly 50%) to encourage domestic production.

In summary, Nigeria's total HS line is 5667, and out of that 164, 2051, 747, 2106 and 599 products of the total HS lines are on 35%, 20%, 10%, 5% and 0% applied tariff rates respectively. For us, it is curious if this structure tallies with the ECOWAS CET.

8.1. Is the ECOWAS CET of any Benefit to Nigeria and the Private Sector?

Indeed, there are several potential benefits that can accrue from the CET to Nigeria. These benefits include:

Implementing ECOWAS commitments can strengthen regional integration.

i. Increased turnover due to a larger domestic market
ii. Enlargement of member states industrial sector through higher economics of scale.
iii. Higher production and productivity.
iv. Higher capital accumulation (Economic growth)
v. Strengthening of national institutions through peer learning among members.

For Policy makers, it is important to state that the implication of the conclusion and adoption of the CET is that no variation in tariff can be made by Nigeria, but flexibility can be made on the taxes and levies since these are yet to be harmonized. However, care must be taken so as to avoid creating trade diversions as a result of the use of levies to protect or develop products.

For Nigeria to utilise the opportunities availed by the ECOWAS CET and other Trade integration policies, a strategic trade initiative that will embrace the following need to be in place:

i. Improvement of the quality of locally manufactured goods if Nigeria is to capture substantial proportion of the export market in ECOWAS;

ii. Willingness on the part of Nigerian manufacturers to be part of the export business within the ECOWAS sub region is critical. This is one essential role that must be played by the Business Membership Organizations (BMOs) such as MAN, NACCIMA, NANTS, NASSI, NASME, etc;

iii. Nigerian missions in ECOWAS countries should engage in economic diplomacy by influencing host country trade policy and engaging in trade information dissemination that creates market access and channels etc;

iv. Nigeria must take the lead in fully implementing trade and trade related protocols by eliminating existing barriers to trade and also working in conjunction with other member states to eliminate tariff and non-tariff barriers; and

v. Nigerian government should use specific incentives to promote trade in ECOWAS region i.e. tax free regime for export business, such as the current Export Expansion Grant (EEG).

9.0. The Joint UEMOA-ECOWAS CET Committee: Accomplishments and Tasks

9.1. The Accomplishments

Although the 1st January 2008 date for the finalization of an ECOWAS CET was not met, significant progress towards its final implementation has been achieved. In this regard, the main achievements of the ECOWAS-UEMOA Joint Committee can be summarized as follows:

i. Development and validation of 10-digit Regional Tariff and Statistical Nomenclature based on the 2007 version of the World Customs Organization Harmonized System.

ii. Adoption by the Heads of State Summit of a Supplementary Act on the creation of a fifth band of the ECOWAS CET at 35% for "Specific goods for economic development" and adoption of common eligibility criteria among all the ECOWAS Member States for the submission of products to this fifth band.

Eligibility criteria are as follows: product vulnerability; economic diversification; integration, sector promotion and high potential of production. Drafting a list of products to submit to the fifth band and in that case, retaining some of the product lines in their original category, which were initially proposed to be included in the 5th band:

iii. The ongoing classification of the products submitted by the countries within the five bands of the CET.

iv. Total number of requests for re-categorization covers approximately 1000 product lines, of which approximately 700 are treated, and approximately 300 remaining.

v. Proposal of the rate of 10% for some imported products "completely knocked down" or unassembled.

9.2. The Current Outcome of Committee's Work

With the present changes made by the CET Joint Committee, the outline of the ECOWAS CET is summarised as indicated below:

S/N	No of items	Tariff lines Category	Percentage Tariff
1	85	Tariff lines under Category 0	0%
2	2,146	Tariff lines under Category 1	5%
3	1,373	Tariff lines under Category 2	10%
4	2,165	Tariff lines under Category 3	20%
5	130	Tariff lines under Category 4	35%

The changes in category affected 74 tariff lines. These changes were effected on the basis of strategic importance of products and the need to stay within the requirements of GATT Art. XXIV

i. In respect of coffee beans under 0901, the Committee decided that though they are primary products it is important to provide a minimum level of protection to secure it against potential competition.

ii. On fats and oils under chapter 15, it was agreed that only those products, the production of which the region has clear comparative advantage should be in the 5th tariff band. The products were identified as follows: groundnut, palm, coconut, and cotton seed oils. The other fats and oils were retained in the 4th band at 20%.

iii. Prepared meat under 1602.31 and 1602.42 were raised to the 5th band to ensure coherence with the tariffication of other meat products.

iv. The duty rate of denatured ethyl alcohol under 2207.20 was reduced to 10% in conformity with the intermediate nature of the product.

v. On textile materials, the committee decided that, made up articles based on cotton under chapter 62 for which the two commissions had proposed 35% should be changed to 20% as this upstream textile industry is not considered strategic at the moment. However, printed cotton fabrics under chapter 52 should attract 35% to protect textile manufacturers in line with the cotton agenda of the region.

vi. Aluminium cans under 7612.90.10.00 was brought down to 10% as a critical packaging material, whilst the rates for unassembled vehicles under 6704.10.10 and pen nibs under 9608.91.00 were reduced to 5% and 10% respectively to ensure coherence.

9.3. The Outstanding Tasks

As final negotiations are continuing on the conclusion and adoption of a regional CET, certain sticky issues still stand out which require immediate attention. The CET Committee would do well to work with member states government to finalize the following issues:

I**. Product Classification:**
Categorization of all products that would be placed in the various tariff bands; generate a popular and acceptable definition of social goods which would be classified under 0 tariff band in order to protect the region's poor consumer public.

ii. Input Classification:
Resolve the tricky issue whereby on the one hand, some goods considered as raw materials in one sector are considered as finished product in another and on the other hand, where a product is considered as finished good in one country (where it is manufactured) and raw material in another country (where it is needed for production processes), e.g. Resin.

iii. Separation of HS Codes for Differential Products:
This is particularly necessary for products which come in two different forms, liquid and solid, with the one being readily available in a country and the other needing importation.

iv. Non Recognition of Waivers at Regional Level:
In appropriate cases, the transparent use of waivers in growing targeted sectors or even whole economies cannot be over-emphasized. While waiver is a widely recognized trade policy tool in a country like Nigeria, it is not recognized at the regional level, that is, within the purport of the regional CET. It is important that a common position be sort before the finalization of the CET.

10.0.Will the Current CET Work?

While it is important that the CET is finally put in place in ECOWAS and critical for the tariff policy to work, there are however serous fears and concerns from the private sector perspective. These concerns are manifest in the following dimensions:

CET can reduce harassments and extortions from traders.

10.1.The Absence of an ECOWAS Trade Policy

While it will not be proper to pre-empt the CET process and its implementation leading the region into a CU, or remain pessimistic about such a laudable effort by the region, there are however certain characteristics of the trading environment in West Africa that needs review in order to raise issues of harmonization and reforms that should be carried out in terms of tariff and non-tariff barriers.

The bigger challenge also lies in the fact that till date, West Africa does not have a Common Trade Policy. The million dollar question then is, on what shield would the CET stand? Would it not be more objective and realistic to first put in place a trade policy which creates the compass and outlines the various trade objectives under which CET and other trade instruments could thrive?

10.2. Imposition of Taxes and levies:

Again, when a regional CET is in place, this is supposed to be consolidated as the total tariff charges on imports into the customs union territories. There remains no more policy space for individual member states to act unilaterally on tariff policy. It is yet to be seen how this can work in Nigeria or some other nations in the region where levies are imposed on certain products that have been considered strategic for their own development agenda.

For instance in Nigeria currently, as a result of the Agricultural Transformation Agenda, a niche product, cassava, has been identified to contribute significantly in the agenda of government. As such, it is being promoted to be included in flour blending for production of bread up to 40%. This drive of government has resulted in the imposition of 65% levy on imported wheat despite that the commodity is presently on the 35% tariff band. This is supposed to induce the sourcing and use of locally produced cassava by the flour mills and enhance the earning power of cassava growers and processors.

What remains to be ascertained is whether other member states of ECOWAS are going to impose the same levies. If not, incidence of smuggling of the product may become attractive using the different levy regimes to import and trans-ship to the destination country through routes that will minimize costs. Nigeria may also loose investments by major players when commodities required for production are within the same tariff bands in the region but attract different levies in Nigeria. Since a Customs union is theoretically supposed to allow for the breakdown of trade barriers, it is not clear whether the envisaged Customs union in ECOWAS can substantially lead to such elimination of trade barriers when differential levies are still imposed.

10.3. The Use of Import Bans and Prohibitions:

The main culprit of this non-transparent trade policy is Nigeria, the biggest economy of the region. When the CET imposes a maximum tariff rate of 35% and certain products are completely banned or prohibited from imports. The regional CET is thus made of no effect when other member states can allow the importation of such goods. Trade deflection/diversion is the result. Goods destined for the Nigerian market are then diverted to neighbouring countries in the union and then (trans) moved to Nigeria. This makes nonsense of the whole agenda.

11. Some Recommendations on the Way Forward

ECOWAS still has the ability to advance its sustainable development ambitions through a progression manner towards a Customs union. In order to achieve this, however, policymakers in the region need to take into account the following issues:

i. **The Need for ECOWAS Trade Policy:**
Considering as a matter of urgency the need to have in place a harmonised trade policy for the region

ii. **Striking a Balance for Poverty Reduction:**
Balancing the desire of the region to adopt the principle of open regionalism, on the one hand, and the imperative to lift millions out of poverty, on the other;

iii. **Compensation Mechanism:**
It is necessary to provide the necessary political and economic commitments to the full implementation of various socio-economic initiatives, such as a social safety net, to minimize the impacts of economic globalization and regionalization. The case for compensation mechanism for smaller states losing the most as a result of tariff cuts or harmonization has to be well factored in.

iv. **Recognizing the Informal Sector in the CET**
Recognizing the importance of the informal sector (given that major chunk of trade across the region is transacted by this sector) and other marginalized economic groups in its economic policy making process. In practice this can be done in many ways, including, for example, the recognition of non professional migrant labourers and artisanal traders that make up the majority of inter-state employment in the region and account for a huge degree of trade through informal means which has no records. It has been propounded at several forums that the current trade among member states in ECOWAS far exceeds the current 10% when the informal cross border transactions are factored in. This calls for a review of mechanisms to capture the informal sector in the region and thus give due consideration for the purpose of the integration agenda;

v. **Taking International Commitments into Account**
Ensure coherence between national, regional and international commitments, including the WTO as this will reduce the possibility of conflicts in the negotiation processes of regional integration especially with regard to tariff policy. An assessment of current conflicts of opinions is necessary to achieve consensus. The ECOWAS commission has taken this lead, but to what extent this has led to meaningful compromises is yet to be ascertained.

vi. **ECOWAS in the WTO:**
Consider the accession of ECOWAS to the WTO as a regional entity, as is the case for the European Union. This option has been presented in some dialogues as one of the solutions to the conflict between the bound rates of some ECOWAS members of the WTO and the regional CET.

vii. **Widening the Consultation/Policymaking Process.**
The private sector must be seen as key in the CET discourse, particularly given that the sector is either the ultimate beneficiary or brunt bearer of any tariff policy outcome. While there are now significant improvements in the quantity of engagement between policymakers and regional stakeholders, the quality of such interactions can still be improved and expanded to include higher level of participation by Civil Society Organizations and professional bodies as well as the Private sector.

viii. **Strengthening Dispute Settlement Mechanism**

Regional security must be considered while formulating the CET.

ECOWAS VANGUARD
....Issues for an ECOWAS of peoples
Volume 2 Issue 2, Dec. 2012

Provide more legal structures for supra national agencies for dispute settlement and enforcements e.g. empowering the Community Court of Justice for contract enforcement involving commercial and economic disputes.

12. Conclusion

It is no gain-say that a Common External Tariff is a basic feature of a customs union. For the ECOWAS region to effectively attain such status and thus further its regional integration objective, it becomes pertinent that the implementation of a pro-development CET be pursued with vigour. The 5th band ECOWAS CET represents to an extent such tariff structure that not just crashes the hitherto high tariffs existing in the region but will sustain a balance allowing for the development of local production capacities. This is of utmost importance to local businesses and the private sector as a whole.

REFERENCES:

1. Rupa Ranganathan & Vivien Foster, ECOWAS's Infrastructure: A Regional Perspective, Policy Research Working Paper No. 5899
2. Sunday Oghayei-, Enhancing intra regional trade – a paper presented during the private sector workshop organized in Abeokuta, Ogun State by NANTS and GIZ.
3. Prof Ademola Oyejide-, The impact of the ECOWAS Common External Tariffs (CET) on the real sector: a case study of the manufacturing sector.
4. Ken UKAOHA, Esq. ECOWAS CET and the 5th Band. A paper reviewing the ECOWAS CET and the place of the 5th band proposal by Nigeria.
5. Edwin Ikhuoriah, Towards a Customs Union in ECOWAS.
6. Dr Jonathan Aremu-, presentation on Issues in ECOWAS Trade Liberalization Scheme.
7. ECOWAS Secretariat (1975) Economic Community of West African States Treaty, ECOWAS, Lagos.
8. ECOWAS, Secretariat (1993). "Revised Treaty", ECOWAS Secretariat, Abuja, Nigeria.
9. Report of the 1ST Meeting of the ECOWAS/UEMOA Joint Management Committee on the ECOWAS Common External Tariff.

NANTS wishes her partners a HAPPY AND PROSPEROUS NEW YEAR 2013!!!

HIGHLIGHT OF NINE CANDIDATES NOMINATED BY COUNTRIES FOR THE REPLACEMENT OF PASCHAL LAMY AS THE WTO DIRECTOR-GENERAL

GHANA

On Dec. 17, Ghana formally nominated Alan John Kwadwo Kyerematen – a former trade minister from that country – to be the next WTO DG.

Mr Alan John Kwadwo Kyerematen

REPUBLIC OF KOREA

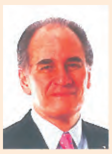
Republic of Korea nominated Minister Taeho Bark for post of WTO DG on 28 December 2012..> News item

Mr Taeho Bark

INDONESIA

Indonesia on 19 December 2012, nominated Minister Mari Pangestu for post of WTO DG. > News item

Ms Mari Elka Pangestu



MEXICO

Mexico on 21 December 2012, nominated Mr Herminio Blanco for post of WTO DG. > News item

Mr Herminio Blanco

JORDAN

Jordan on 21 December 2012, nominated Mr Ahmad Hindawi for post of WTO DG. .> News item

Mr Ahmad Thougan Hindawi

KENYA

Kenya on 21 December 2012, nominated Ms. Amina Mohamed for post of WTO Director-General. > News item

Ms Amina C. Mohamed

COSTA RICA

Costa Rica on 19 December 2012, nominated Minister Anabel González for post of WTO DG. > News item

Mr Alan John Kwadwo Kyerematen

NEW ZEALAND

New Zealand on 20 December 2012, nominated Minister Tim Groser for post of WTO DG. > News item

Mr Tim Groser

BRAZIL

Brazil on 28 December 2012, nominated Mr Roberto Carvalho de Azevêdo for post of WTO Director-General. > News item

Mr Roberto Carvalho de Azevêdo

NEWS

According to the WTO procedures for appointment of Director-General, the nomination period will close on 31 December 2012. A formal General Council meeting will be held on 29 January 2013 where candidates will present themselves to the membership. The selection process will conclude with a decision by the General Council no later than 31 May 2013.

WTO REFERENCE CENTRE IN BURKINA FASO

The WTO Reference Centre in Ouagadougou is being upgraded. During his visit to Burkina Faso, WTO Director-General Pascal Lamy announced the signature of an agreement to modernize and upgrade the WTO Reference Centre, created in in 1997 in Ouagadougou within the Ministry of Trade, Industry and Crafts.> News item

WTO MINISTERIAL CONFERENCES

The Ninth WTO Ministerial Conference will be held in Bali, Indonesia, from 3 to 6 December 2013. The Opening Ceremony will be held on the afternoon of the first day, Tuesday 3 December, followed by two working days, 4 and 5 December, with the Closing Ceremony on the final day, Friday 6 December.

ECOWAS VANGUARD

....Issues for an ECOWAS of peoples

Volume 2 Issue 2, Dec. 2012

ECOWAS Vanguard is published by the National Association of Nigerian Traders as a policy advocacy tool to sensitize and bring about the desired change in the current attitude to regional Integration in the ECOWAS sub region be raising awareness, stimulating discussions and debate on the multiple issues that relate to the Regional integration process.

Views and comments are welcome and should be directed to:

This article is authored by:
Ken UKAOHA, Esq. and Aniekan UKPE

The Editor:
ECOWAS VANGUARD
National Asssociation of Nigerian Traders
19, Dan Suleiman Crescent,
Utako - Abuja

NANTS acknowledges with kind appreciation the financial support of GIZ towards the publication of this edition of ECOWAS Vanguard. However, ALL views expressed in this publication do not in any way reflect or represent that of GIZ, but that of the Authors.

Design and Layout:
thebren communications 08034410900, 08055314199

ABOUT NANTS

The National Association of Nigerian Traders (NANTS) is the umbrella organization of traders in raw materials, industrial and finished goods (locally made and imported) in Nigeria. However, to encourage the interlink between market access and production of goods, NANTS' membership has recently been expanded to include local manufacturers of consumer goods, local raw materials providers as well as local farmers' networks. Women constitute about 65% of NANTS membership.

The vision of NANTS is to ***"advance trade beyond buying and selling to a vehicle for social justice, human rights, sustainable development and poverty reduction".***

The mission of NANTS is ***"promoting trade and economic advancement, uniting and championing the rights of and cause of the Entrepreneur through strategic programmes and policy interventions."***

NATIONAL ASSOCIATION OF NIGERIAN TRADERS – NANTS
Plot 19, Dan Suleiman Crescent, Behind Utako Market; FCT – Abuja
Email : nants_nig@yahoo.com or info@nants.org or kennants@yahoo.com
Tel: +234 806 401 4786, +234 803 3002 001, +234 9 7812124.
Website: www.nants.org