

AID-FOR-TRADE: CASE STORY

ECOWAS

Gap Analysis of the ECOWAS Trade Liberalization Scheme (ETLS)

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CEDEAO**

Title:	Gap Analysis of the ECOWAS Trade Liberalization Scheme (ETLS)
REGION:	West Africa
COUNTRY:	Benin, Burkina Faso, Cote d'Ivoire, Ghana, Mali, Niger, Nigeria, Senegal, Togo
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EXECUTIVE SUMMARY

The ECOWAS Commission, in partnership with USAID West Africa Trade Hub, undertook a gap analysis of the ECOWAS Trade Liberalization Scheme (ETLS) to identify which aspects of the ETLS protocols *are* being implemented in individual Member States, and which aspects *are not*, and what public and private sector stakeholders' view as the obstacles to implementation. The study included detailed research in Member States in order to provide a comprehensive presentation of the situation and offer recommendations for improvement.

The essential features of the ECOWAS Free Trade Area driven by the ECOWAS Trade Liberalization Scheme (ETLS) are the free movement of transport, goods and persons within ECOWAS, including the removal of all tariff and non-tariff barriers to trade. The benefits of the ETLS for West Africa, when fully implemented would be—greater economic growth, more jobs and lower consumer prices. In the longer term, ECOWAS envisions progressing from a free trade area to a full customs union and eventually a common market to facilitate trade in the region. The free trade area, however, is a necessary precursor to these broader goals of enlarged local market, realizing economies of scale and strengthening bargaining positions in global negotiations, and in order for it to be effective, ECOWAS member states need to implement the ETLS's provisions uniformly.

1. ISSUES ADDRESSED

- Assessment of the level of implementation of ETLS protocols by the government agencies tasked with day-to-day implementation, both in the capital city and at border posts which process goods being transported into and through 9 (i.e. Benin, Burkina Faso, Cote d'Ivoire, Ghana, Mali, Niger, Nigeria, Senegal, and Togo) of 15 ECOWAS Member States

- Promulgation of ETLS protocols into national laws and publication of rules and procedures to the public
- Compilation and review of all ECOWAS Protocols on the free movement of persons, goods and transport
- Schedules of official tariffs, taxes and fees; and
- Delays and costs in the movement of persons, goods and transport across the region

2. OBJECTIVES PURSUED

- To identify the areas where changes to properly implement the ETLS will have the greatest impact on the competitiveness of West African products.
- Provide prioritized recommendations and actionable items to increase regional trade to make West African businesses more competitive
- Inform the public and private sector on regional rules on movement of persons, goods and transport
- Open a dialogue with public-private stakeholders for trade policy improvements in the region
- Provide a monitoring tool for ECOWAS and national governments to identify issues of transparency, information dissemination, technical capacity and legislative and/ or regulatory changes necessary for full ETLS implementation

3. GAP ANALYSIS DESIGN AND METHODOLOGY

The starting point in the Gap Analysis was mapping the ECOWAS Treaty (1993) through to final decisions. As can be expected in the creation of a customs union, the protocols, decisions, and regulations created go through several iterations. The mapping exercise began with a review of the Treaty, which was subsequently modified and elaborated through a series of protocols, decisions, and resolutions stipulating how the free trade area and its components - free movement of transport, goods and persons - are to be implemented by the Member States. This exercise served as the basis for the Trade Hub's Gap Analysis questionnaire and resulted in a simplified index of the final protocols by topic.

The Gap Analysis involved interviewing public officials and private sector representatives in Benin, Burkina Faso, Cote d'Ivoire, Ghana, Mali, Niger, Nigeria, Senegal and Togo. Two Trade Hub teams conducted the interviews, one covering public sector respondents and the other private sector respondents. Separate questionnaires were prepared for the public and private sector interviews. For each questionnaire, an interview guide and instructions were compiled to explain in further detail the scope of each question. The questions for public sector respondents were prepared to determine whether required documents and existing procedures met ETLS standards. The interview team asked public sector officials for copies of legislation or regulations promulgating ETLS protocols at the Member State level, as well as whether ETLS protocols are fully implemented at the borders and how they inform private sector traders of those rules and procedures.

A guidebook produced for the Gap Analysis contains a brief background section, a guide for interviewers on who to interview, which documents to obtain and why, and a list of public sector agencies responsible for cross-border trade. The guidebook also contains the full text of the ETLS protocols, ECOWAS templates and forms. The actual documents that are required to move across borders were collected in each Member State for comparison with ECOWAS

templates and general reference. These include documents such as the Brown Card, Inter-State Road Transit scheme (ISRT) logbook, residence cards, and the agreement certificate for an ECOWAS road transit vehicle.

A total of approximately 200 private representatives were interviewed, based on the availability of companies familiar with the processes of cross-border trade, including producers, transporters and forwarding agents. Companies in the Trade Hub's network and Exporters Directory were also surveyed. A number of ETLS-registered companies were also interviewed, as were non-ETLS registered companies based near/at the borders. The further companies involved in regional trade (both importers and exporters) identified through national chambers of commerce, as well as small traders who cross borders frequently were also interviewed. The public sector agency interviews were conducted with agencies responsible for implementation of specific ETLS protocols. The Trade Hub carried out interviews at two borders per country, except in Nigeria, Côte d'Ivoire and Senegal, where time did not permit multiple border visits.

Validation meetings on the findings of the study were held in Burkina Faso, Ghana, Cote d'Ivoire, Mali, Nigeria and Senegal in August and September 2010, and collected additional legislation on rules and procedures governing trade within the Member States. The Validation workshops provided an opportunity for the dissemination of the study findings in those countries, where stakeholders also expressed sincere interest in the study.

4. PROBLEMS ENCOUNTERED

National laws and procedures relating to ETLS protocols were exceptionally difficult to locate, which is an important finding of the study. The Trade Hub consulted local legal experts in most countries, and even they found it challenging to track down relevant documents. Traders and transporters are unlikely to have such experts at their disposal and, if they do, this expertise comes at a cost. If they do not have the time or resources to invest in researching compliance requirements, they are likely to pay the price in terms of delays, fees or informal payments at control points. The inaccessibility of information on trading rules and procedures, therefore, serves as a real barrier to efficient and cost-effective trade.

5. FACTORS FOR SUCCESS/FAILURE

- Strong political will to make improvements
- Information dissemination to both public and private sector
- Effective coordination of ETLS-implementing agencies in Member States

6. RESULTS ACHIEVED

A majority of respondents in each country indicated that the visa free movement of persons is being implemented. This is a significant accomplishment that indirectly benefits trade by reducing the cost and time for traders and transporters to clear immigration when doing business throughout the region.

Member States have generally been less successful, according to private sector respondents, in implementing protocols on free movement of goods and transport. When moving goods across

borders in the region, traders still encounter tariff and non-tariff barriers (e.g. quantity, quota and seasonal restrictions) that increase the cost of doing business.

Transporters face similar hurdles in their operations, according to private sector respondents. Differing vehicle standards, inspection requirements, and axle weight limits, all of which were to be harmonized under the ETLs, increase the compliance burden for regional transporters. They also create opportunities for corruption, as many transport operators do not have the capacity or choose not to comply with a complex web of conflicting rules. Transporters' costs are similarly driven up by customs procedures that conflict with the letter or spirit of the ETLs protocols, such as mandatory customs escorts for vehicles in transit and multiple payments for transit logbooks that are only supposed to be issued at the point of origin.

7. LESSONS LEARNED

- Removing policy barriers to trade is not simple. Need an advocacy platform and strong political will for dialogue between public and private sector stakeholder to initiate improvements when many layers of legal and bureaucratic procedures need to be changed and all officers trained.
- Information dissemination and capacity-building for national implementing agencies is extremely crucial for the success of the ETLs Preferred Trader Scheme
- Delays and unpredictable costs discourage regional trade by increasing the cost of doing business in West Africa
- Absolute need for early high level involvement at ECOWAS and national governments
- The rate of speed of improvements is slow

8. CONCLUSION

The Gap Analysis has identified significant impediments to trade within ECOWAS in the areas of transport and free movement of goods. In the category of transport, the package of trade facilitation measures introduced by the ISRT Conventions, including the customs bond and logbook system, is not speeding up the flow of trade in the way that it should. The stakeholders in West Africa (particularly transport operators) can utilize the findings of the Gap Analysis to work with individual Member States on better implementation of these important measures.

In the category of free movement of goods, both tariff and non-tariff barriers to trade between Member States still persist. While some progress has certainly been made in reducing tariffs, both public and private sector respondents confirmed that they have not been fully eliminated. Progress towards removing non-tariff barriers, such as seasonal import and export bans, has been slower. Both problems require advocacy by the private sector and ECOWAS, as well as other partner programmes/ projects, because these barriers have constituencies that want to see them maintained. Domestic industries that benefit from the protection that trade barriers provide and customs agencies that generate revenues (formal and informal) from tariffs and fees are both likely obstacles to change.

The lack of a functioning preferred trader scheme is further hindering the free flow of processed goods in the region. This is an area where the ECOWAS Commission and donors can support Member States in establishing the systems for registering preferred traders, maintaining up-to-date lists of firms participating in the scheme, and publicizing the benefits of becoming a preferred trader amongst firms in their jurisdictions.