RETHINKING REGIONAL INTEGRATION AND SOVEREIGNTY: A CRITIQUE OF CONTEMPORARY ISSUES

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ABSTRACT

Regional integration is aimed at shared prosperity among peoples across national borders. Regional integration entails regional encroachment on sovereign borders in a mutually beneficial manner. Countries freely submit their sovereign rights for broader benefits to their people. When regional integration fails to achieve the objectives of shared prosperity and regional harmony, there is bound to be disintegration. Brexit is the European Union's contemporary experience of regional disintegration. In the Economic Community of West African States (ECOWAS), the notice of withdrawal by Niger, Mali and Burkina Faso from ECOWAS reflects the challenges and contemporary issues arising from regional integration. Whether free trade agreement (FTA), customs union (CU), common market (CM) or economic union (EU) every form of regional integrity must actively pursue its core objectives in order to retain its membership.

1. INTRODUCTION

Regional integration targets economic prosperity and political stability. It seeks to foster harmony and co-operation among members of an economic or political bloc, thereby whittling down some aspects of their sovereignty for the common good. Regional integration is often challenged by the unconscious assertion of sovereign rights by members States. The challenges of regional co-operation and integration are intertwined with the principles of sovereignty and the readiness and willingness of member States to delegate part of their sovereignty to the appropriate organs of the regional bloc. The withdrawal of the United Kingdom from the European Union (EU)[1] and the recent threat of some Sahel States to withdraw from the Economic Community of West African States (ECOWAS) have pointed the searchlight on the efficacy and relevance of regional integration to contemporary economic and political problems faced by various States.

This paper examines the concepts of sovereignty and regional integration, and highlights some of the theories of regional integration. It also examines the stages of regional integration from free trade agreements, customs union, common market, up to economic union. It forays into the history of regional co-operation and integration, spotlighting the European Union (EU). It delves into regional co-operation in Africa, briefly looking at the Customs and Economic Union of Central Africa (UDEAC) which metamorphosed into the Central African Economic and Monetary Community (CEMAC), the East African Community (EAC), the South Africa Customs Union (SACU), the Southern African Development Co-ordinating Conference (SADCC) which later became the Southern African Development Community (SADC), the Preferential Trade Area (PTA) which became the Common Market for Eastern and Southern Africa (COMESA), the West African Economic Community (CEAO), the West African Economic and Monetary Union (UEMOA), the Arab Maghreb Union (AMU), the Economic Community of the Great Lakes Countries (CEPGL), and the Economic Community of Central African States (ECCAS). It interrogates the dynamics of ECOWAS Member States delegating part of their sovereignty to the appropriate organs of ECOWAS, as a compromise towards collective attack against the problems of underdevelopment in order to enhance the quality of life of their people

2. SOVEREIGNTY

Sovereignty refers to the exclusive control over the territory of a sovereign State and the political independence of the State. A sovereign State is one that is independent and which does not acknowledge any superior.[2] Sovereignty

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1 Commonly referred to as Brexit, which is a short form for 'British Exit', the United Kingdom withdrew its membership from the European Union on 31 January, 2020.

2 J M Elegido, *Jurisprudence* (Ibadan: Spectrum Books, 1994) 50.

speaks to the supreme and independent power of a State or the territory of a sovereign or of a sovereign State.[3]

Sovereignty carries with it the principle of territorial integrity. The principle of territorial integrity of States has been well established and protected by several rules of international law.[4]The Charter of the United Nations (UN) prohibits interference by a State within the domestic jurisdiction of another State[5]and forbids the threat or use of force by one State against the territorial integrity and political independence of another State.[6] The principle of territorial integrity reflects an aspect of the sovereignty exercisable by a State in its territorial home, and is the irreducible minimum foundation for the application of the several rights that States possess and assert in the international community.[7]

Sovereignty relates to a politically independent nation State or a political entity that is not ruled by another. It is the characteristic of being endowed with supreme authority. It may also refer to a person, body or State vested with independent and supreme authority or the ruler of an independent State.[8] Sovereignty is used in reference to the legal competence of a State over its territory, its appurtenances, the government and its population.[9] It is the supreme, absolute, uncontrollable power and absolute right to govern.[10] Sovereignty or '*superioritas'* must be single, indivisible, unlimited, illimitable and omnipotent or pre-eminent.[11]

Sovereignty is the power of a State to do everything necessary to govern itself. It is the intentional independence of a State combined with the right and power of regulating its internal affairs without foreign interference.[12] In Nigeria, sovereignty inheres in and is said to belong to the people, from whom government derives all its powers and authority.[13]

Sovereignty includes territorial and economic sovereignty. Territorial sovereignty refers to the exercise of sovereign authority over the people in a domain or jurisdiction, which is often referred to as independence.[14] Economic sovereignty connotes juridical independence of a State from the authority of other States and relates to the ability of a State to manage its resources without undue interference.[15] Economic sovereignty is the basis upon which States choose their economic systems free from interference by other States.[16] Economic sovereignty is perceived as a part of international human rights entrenched in several international instruments[17], including more particularized norms at the universal and regional levels.[18] Thus, sovereign States guard their sovereignty jealously.[19]
The international law principles enshrined in the doctrine of sovereignty have been well-settled and are recognized and respected by all States in the comity of nations. In *Compania Naviera Vascongado v. S. S. Cristina*[20], the

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3 *The Chambers Dictionary*, New Edition, 1998.
4 M N Shaw, *International Law* (4th edn., Cambridge: Cambridge University Press, 1999) 354.
5 Article 2 (7) of the UN Charter.
6 Article 2 (4) of the UN Charter.
7 Shaw, *op. cit*.
8 B A Garner (ed.) *Black's Law Dictionary* (9th edn., West Publishing Co., 2009) 1523.
9 U S F Nnabue, *The Dialectics of International Development Law and the Dilemma of Underdevelopment in the Developing Countries* (Imo State University Press, 2012), 28.
10 *Ibid*.
11 U S F Nnabue, *Territorial Sovereignty in International Law* (P.U.L, 1984), 41.
12 I Mwanawina, "*Regional Integration versus National Sovereignty: A Southern African Perspective*" (2011) 44 [4] Law and Politics in Africa, Asia and Latin America, 465.
13 *Section 14 (2) (a) of the Constitution of the Federal Republic of Nigeria 1999 as amended*.
14 The case of *Island of Palmas Arbitration* (1928) 22 American Journal of International Law, 875.
15 Nnabue, *Dialectics of International Development Law*, 29.
16 Article 1 of the Charter of Economic Rights and Duties of States; Article 20 of the African Charter on Human and Peoples Rights; the United Nations General Assembly Resolution 1803 (XVII) on Permanent Sovereignty of States over Natural Resources (PSNR) and United Nations General Assembly Resolution 3281.
17 Such as the International Covenant on Economic, Social and Cultural Rights.
18 N O Obiaraeri, "*In Search of a Uniform Definition of Human Rights*" (2016) 1 Imo State University Law Faculty Research Papers, 100 – 118.
19 U Mazi, "*Norms of Sovereignty & Intervention in International Law: The Debate Continues*" (2019) 4 Imo State University Journal of International Law and Jurisprudence, 151 – 162.
20 [1938] AC 485.

English House of Lords elucidated on some of the practical and legal implications of sovereignty and the attendant doctrine of sovereign immunity. Lord Macmillan held that sovereign independence and equality of all States of the international community is:

> a doctrine of public international law that it shall have attained the position of general acceptance by civilized nations as a rule of international conduct, evidenced by international treaties and conventions, authoritative textbooks, practice and judicial decisions. It is manifestly of the highest importance that the Courts of this country before they give the force of law within this realm to any doctrine of international law should be satisfied that it has the hallmarks of general assent and reciprocity.[21]

Lord Macmillan further held in the same judgment that the principle of State sovereignty "*was a concession to the dignity, equality and independence of foreign sovereigns which the comity of nations enjoined*."[22]

Sovereign integrity and independence were held to be very sacred for several years. However, over time, notwithstanding the reverence accorded the principles of State sovereignty, nations have conceded certain aspects of their sovereignty for economic, political, historical, cultural or other interests. In the *Cristina* case, Lord Macmillan stated that "*[i]t is only in modern times that sovereign States have so far condescended to lay aside their dignity as to enter the competitive markets of commerce*…."[23]

3.0 REGIONAL CO-OPERATION AND INTEGRATION

The terms 'regional co-operation' and 'regional integration' appear to be used interchangeably in the literature on the subject of regional co-operation and integration.[24]Regional integration seems to be the more preferred term in most of the existing literature on the subject. Generally, the terms refer to the unification of nation States into a larger whole by a dynamic process whereby nations make certain compromises to enhance the quality of life of their people.[25]

Regional integration is a process of co-operation between nation States whereby sovereign rights are gradually shifted to a supra-national level in order to develop and execute policies for the whole region.[26] Regional integration refers to a process of large-scale territorial differentiation in which independent sovereign States progressively lower their internal boundaries thereby giving rise to new external boundaries, involving many different aspects of co-operation.[27]It is the laying aside of certain aspects of State sovereignty that has given rise to regional co-operation and integration. The result is that certain supranational organisations assume the role of sovereign States within their sphere of influence.

The distinction between regional integration and regional co-operation is blurred. According to Lombaerde, the World Bank (2002) proposed to distinguish between 'integration' and 'co-operation' on the basis of the degree of sovereignty that countries agree to transfer to supranational institutions, but recognized that the borderline is not clear-cut.[28]

Regional integration may be understood along three lines of geographic scope, substantive coverage, and depth of

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21 *Ibid* at 496.

22 *Ibid* at 498.

23 *Ibid*.

24 See generally, P De Lombaerde, "*Indicators of Regional Integration: Methodological Issues*", Institute for International Integration Studies (IIIS) Discussion Paper, No. 64/March 2005, available at https://ssrn.com/abstract=739711 accessed on 23/9/2022 (hereafter Lombaerde, "*Indicators of Regional Integration*"); F Laursen, "*Theory and Practice of Regional Integration*"(2008) 8 [3] Jean Monnet/Robert Schuman Paper Series available at http://www.sei.pitt.edu/8219/ accessed on 30/9/2022 (hereafter Laursen, "*Theory and Practice of Regional Integration*").

25 SKayizz-Mugerwa, *et al*, "*Regional Integration in Africa: An Introduction*" (2014) 26 [S1] African Development Review, 1-6

26 R Sohn, "*Understanding Regional Integration in West Africa: A Multi-Thematic and Comparative Analysis*" (2014) WAI-ZEI Paper No. 17.

27 Lombaerde, *op. cit*.

28 *Ibid*.

integration among others.[29] The geographic scope illustrates the number of countries involved as variable geometry; the substantive coverage or width refers to the sector or activity coverage such as trade, labour mobility, macro-policies, sector policies, etc; whilst the depth of integration is used to measure the degree of sovereignty a country is ready to surrender, that is, from simple co-ordination or co-operation to deep integration.

Laursen views integration more from the perspective of nation States delegating and pooling sovereignty to a community or a central authority.[30] Whichever way it may be considered, regional co-operation and integration involve making concessions on national independence and sovereignty. As Lord Macmillan stated in 1938 long before modern forms of regional co-operation and integration began, "*sovereign States have so far condescended to lay aside their dignity.*"[31] Without laying aside some modicum of territorial integrity, there can be no form of regional co-operation or integration.

3.1 THEORIES OF REGIONAL INTEGRATION

The study of regional co-operation and integration is variegated, multi-dimensional and multidisciplinary. Lombaerde believes that the multi-disciplinary nature of the subject is accountable for the various complementary and sometimes competing theories on the matter.[32]Laursen[33] has attempted a discussion of the theories of regional integration. He observes that most of the theories of integration were developed to explain the processes of European integration. It was in Europe that regional integration started in the early 1950s with the European Coal and Steel Community (ECSC).[34]

The classical integration theories of neo-functionalism dominated the debate about European integration from the very beginning in the 1950s until the early 1990s. The neo-functional theories conceived of integration as both a 'process' and a 'product'. They perceived integration as the attainment within a territory, of a sense of community, and of institutions and practices strong enough and widespread enough to assure, for a long time, dependable expectations of peaceful change among its population. It was also seen as the amalgamation of two or more previously independent units into a single larger unit, with some type of common government.[35] Classical neofunctionalism also saw integration as the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities to a new centre whose institutions possess or demand jurisdiction over the pre-existing national States.[36]

In the 1990s, theoreticians of integration shifted from neofunctionalism to liberal intergovernmentalism.[37] Liberal intergovernmentalism views regional decision-making as grand bargains. The framework of liberal intergovernmentalism includes three phases: national preference formation, interstate bargaining and institutional choice.[38] This set of theories hinge on pooling and delegation of sovereignty as a rational strategy of integration or co-operation adopted by member States in order to pre-commit governments to future decisions, to encourage future co-operation and to improve future implementation of agreements. The theories rely on theories of decision-making, negotiations and international political economy in an elegant combination to construct a parsimonious framework for the study of international co-operation. The key features are federalist ideology, centralized technocratic management or more credible commitment.[39]

3.2 STAGES OF REGIONAL INTEGRATION

Regional integration occurs in different stages. As international trade and investment levels rise, the level of

29 Sohn, *op. cit*.
30 Laursen, *op. cit*.
31 Lord Macmillan, notes 19 – 22 above.
32 Lombaerde, *op. cit*.
33 Laursen, *op. cit*.
34 *Ibid*. See also, K Lenaerts and P van Nuffel "*The Community Integration Path*" in Robert Bray (ed.), *Constitutional Law of the European Union* (London: Sweet & Maxwell, 1999) 3.
35 Laursen, *op. cit*.
36 *Ibid*.
37 *Ibid*.
38 *Ibid*.
39 *Ibid*.

economic integration between various groups of nations also deepens. The most obvious example of this is the European Union (EU), which has evolved from a collection of autarkical nations to become a fully integrated economic unit. Although it is rare that relationships between countries follow so precise a pattern, formal economic integration takes place in stages, beginning with the lowering and removal of barriers to trade and culminating in the creation of an economic union.[40] There are four stages of economic integration. These are as follows:[41]

3.2.1 Free Trade Agreements (FTAs)

The first level of formal economic co-operation or integration is the establishment of free trade agreements (FTAs) or preferential trade agreements (PTAs). FTAs eliminate import tariffs as well as import quotas between signatory countries. These agreements can be limited to a few sectors or can encompass all aspects of international trade. FTAs can also include formal mechanisms to resolve trade disputes. The North American Free Trade Agreement (NAFTA) is an example of such an arrangement. Aside from a commitment to a reciprocal trade liberalization schedule, FTAs place few limitations on member States. Although FTAs may contain provisions in these areas if the signatory countries agree to do so, no further harmonization of regulations, standards or economic policies is required, nor is the free movement of capital and labour a necessary part of a free trade agreement. FTA signatory countries also retain independent trade policy with all countries outside the agreement. However, in order for an FTA to function properly, member countries must establish rules of origin for all third-party goods entering the free trade area. Goods produced within the free trade area (and subject to the agreement) may cross borders tariff-free, but rules of origin requirements must be met to prove that the good was in fact produced in the exporting country. In the absence of rules of origin, third-party countries seeking trade access to the FTA area will choose the path of least resistance – the country where they face the lowest opposing tariff – in order to gain effective entry to the entire FTA region.

3.2.2 Customs Union (CU)

The formation of a customs union is the second stage of regional integration. A customs union (CU) builds on a free trade area by, in addition to removing internal barriers to trade, also requiring participating nations to harmonize their external trade policy. This includes establishing a common external tariff (CET) and import quotas on products entering the region from third-party countries, as well as possibly establishing common trade remedy policies such as anti-dumping and countervail measures. A customs union may also preclude the use of trade remedy mechanisms within the union. Members of a CU also typically negotiate any multilateral trade initiative (such as at the World Trade Organization) as a single bloc. Countries with an established customs union no longer require rules of origin, since any product entering the CU area would be subject to the same tariff rates and/or import quotas regardless of the point of entry. The elimination of the need for rules of origin is the chief benefit of a customs union over a free trade area. To maintain rules of origin requires extensive documentation by all FTA member countries as well as enforcement of those rules at borders within the free trade area. This is a costly process and can lead to disputes over interpretation of the rules as well as other delays. A CU would result in significant administrative cost savings and efficiency gains. In order to gain the benefits of a customs union, member countries would have to surrender some degree of policy freedom – specifically the ability to set independent trade policy. By extension, because of the increased importance of trade and economic measures as foreign policy tools, customs unions place some limitations on independent foreign policy as well.

3.2.3 Common Market (CM)

A common market is the third stage of regional integration. It represents a major step towards significant economic integration. In addition to containing the provisions of a customs union, a common market (CM) removes all barriers to the mobility of people, capital and other resources within the area in question, as well as eliminating non-tariff barriers to trade, such as the regulatory treatment of product standards. Establishing a common market typically requires significant policy harmonization in a number of areas. Free movement of labour, for example, necessitates agreement on worker qualifications and certifications. A common market is also typically associated – whether by design or consequence – with a broad convergence of fiscal and monetary policies due to the increased economic inter-dependence within the region and the effect that one member country's policies can have on other member countries. This necessarily places more severe limitations on member countries' ability to pursue independent economic policies. The principal advantage of establishing a common market is the expected gains in economic

40 M Holden, "*Stages of Economic Integration: From Autarky to Economic Union*" available at http://publications.gc.ca/ collections/Collection-R/LoPBdP/inbrief/prb0249-e.htm accessed on 29/9/2022 .

41 The following categorizations are adopted from Michael Holden, *ibid*.

efficiency. With unfettered mobility, labour and capital can more easily respond to economic signals within the common market, resulting in a more efficient allocation of resources.

3.2.4 Economic Union (EU)

The emergence of an economic union is the deepest form of regional integration. An economic union adds to a common market the need to harmonize a number of key policy areas. Most notably, economic unions require formally co-ordinated monetary and fiscal policies as well as labour market, regional development, transportation and industrial policies. Since all countries would essentially share the same economic space, it would be counter-productive to operate divergent policies in those areas. An economic union frequently includes the use of a common currency and a unified monetary policy. Eliminating exchange rate uncertainty improves the functioning of an economic union by allowing trade to follow economically efficient paths without being unduly affected by exchange rate considerations. The same is true of business location decisions. Supranational institutions would be required to regulate commerce within the union to ensure uniform application of the rules. These laws would still be administered at the national level, but countries would abdicate individual control in this area.

4. THE EUROPEAN UNION (EU)

Scholars have argued that although the idea of integration, particularly European integration, existed even before the First World War, modern thoughts of integration are traceable to a 1946 speech by Winston Churchill at the University of Zurich in which he called for the establishment of “a kind of United States of Europe” on the continent.[42] As already stated in this work, regional co-operation or integration started in Europe in the 1950s. The modern day European Union (EU) is based on three European Communities which were established by treaty, namely, the European Coal and Steel Community (ECSC), the European Community (EC) which was preceded by the European Economic Community (EEC), and the European Atomic Energy Community (also known as Euratom or EAEC). Other forms of non-Community co-operation exist among European nations.[43]

In 1951, six European countries signed the ECSC Treaty in Paris to establish the ECSC with a High Authority as a supranational institution and agreed to transfer the administration of two basic industries to the supranational High Authority empowered to take decisions binding on both the Member States and on the coal and steel undertakings.[44] The ECSC Treaty entered into force on July 23, 1952. It was the very first attempt at creating a form of regional co-operation with a supranational institution.[45] The European States that signed the ECSC Paris Treaty were Belgium, France, Germany, Italy, Luxembourg and the Netherlands.

The ECSC was based on a functional approach to European integration with specific aims. The ECSC transferred real legislative power to the ECSC Community in designated fields in order to achieve the aims of setting up the Community and established a common market in coal and steel by abolishing and prohibiting within the Community all import and export duties and charges having equivalent effect and all quantitative restrictions on the movement of products, together with all measures discriminating between producers, purchasers or consumers or interfering with the purchaser’s free choice of supplier, State aid and restrictive practices. The ECSC institutions were empowered to ensure an orderly supply to the common market, equal access to sources of production, the lowest possible prices, the maintenance of conditions such as to encourage more efficient production and resource utilization, improved working conditions, the growth of international trade and the modernization of production.

Following the successes recorded with the ECSC, the Treaty of the EEC or EC was signed in Rome on March 25, 1957 and came into force on January 1, 1958. The EC Treaty set out to achieve four economic freedoms, namely, free movement of goods, persons, services and capital including payments, which were the pillars of the common market established under the Treaty. At the same time as the EC, the Treaty establishing the EAEC or Euratom was signed and it equally entered into force on January 1, 1958. The EAEC Treaty sought to create the conditions necessary for speedy establishment and growth of nuclear industries by providing for common policies on research, safety standards, investments and installations, supplies of ores and fuels, application of the nuclear industry, right of ownership in fissile materials and international relations in the field of nuclear energy with a common nuclear

42 See for instance, K Lenaerts and P van Nuffel “*The Non-Community Integration Path*” in Robert Bray (ed.), *Constitutional Law of the European Union* (London: Sweet & Maxwell, 1999) 23 – 24.

43 *Ibid*.

44 *Ibid*.

45 *Ibid*.

energy market.[46]

The Treaty of the European Union (EU) of February 7, 1992 extended the sphere of action of the Communities beyond the economic sphere by seeking to introduce an economic and monetary union not later than January 1, 1999 and fulfilling the conditions necessary for the adoption of a single currency. Today, the Maastricht Treaty of the EU has virtually turned the EU into some form of federation based on the principle of *subsidiarity* and thereby becoming the most integrated regional integration effort globally.

5. THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS (ASEAN)

The Association of Southeast Asian Nations (ASEAN) is a *geo-political* and economic organization of ten countries located in *Southeast Asia*, which was formed on August 8, 1967 by *Indonesia*, *Malaysia*, the *Philippines*, *Singapore* and *Thailand*. Since then, membership has expanded to include *Brunei*, *Burma (Myanmar)*, *Cambodia*, *Laos*, and *Vietnam*.

In 1990, Malaysia proposed the creation of an *East Asia Economic Caucus* comprising the then members of ASEAN as well as the People's Republic of China, Japan, and South Korea, with the intention of counterbalancing the growing influence of the United States in the *Asia-Pacific Economic Co-operation* (APEC) and in the Asian region as a whole.

In 1992, the Common Effective Preferential Tariff (CEPT) scheme was signed as a schedule for phasing tariffs and as a goal to increase the region's competitive advantage as a production base geared for the world market, as the framework for the *ASEAN Free Trade Area*. There are calls for the formation of the *ASEAN Plus Three* (the three being China, Japan, and South Korea).

On December 15, 1995, the *Southeast Asian Nuclear Weapon Free Zone Treaty* was signed with the intention of turning Southeast Asia into a *Nuclear Weapon Free Zone*. The Treaty took effect on March 28, 1997 after all but one of the Member States have ratified it. It became fully effective on June 21, 2001 after the Philippines ratified it, effectively banning all nuclear weapons in the region. East Timor submitted a letter of application to be the eleventh member of ASEAN at the summit in Jakarta in March 2011. Indonesia has shown a warm welcome to East Timor.[47]

6. THE NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

The North American Free Trade Agreement (NAFTA) is a trading bloc that includes the United States (US), Canada and Mexico. It is a trade agreement that took effect on January 1, 1994, and it encourages trade between the United States, Canada, and Mexico. The agreement phased out most of the tariff and non-tariff trade barriers that existed among NAFTA countries.[48]

The idea of establishing NAFTA was first proposed by US President Ronald Reagan as part of his presidential campaign in 1980. The proposal was inspired by the success of the European Economic Community which stimulated trading activities among its member States. NAFTA was aimed at increasing trade and production for businesses and the creation of jobs in the member State, through the reduction or elimination of trade barriers existing among NAFTA States.[49] President Reagan's idea was improved upon as a common trade zone in 1985 by Canadian Prime Minister, Brian Mulroney, who proposed the formation of a Canada-US free trade agreement (FTA)[50]. The negotiations commenced in 1986, and the two countries signed the agreement in 1988.

The Canada-US agreement came into effect on January 1, 1989.In 1990, then Mexican President, Carlos Salinas, initiated discussions with the US to join the North American free trade zone. Consequently, Reagan's successor, President George Bush, began negotiations in 1991 for a North American trade agreement that would bring together

46 ibid at 7.

47 See http://en.wikipedia.org/wiki/ASEAN accessed on September 12, 2012.

48 Corporate Finance Institute, "*North American Free Trade Agreement (NAFTA)*" available at https://corporatefinanceinstitute.com/resources/knowledge/economics/north-american-free-trade-agreement-nafta/ accessed on 26/9/2022.

49 *Ibid*.

50 A Free Trade Area (FTA) is a specific region covered by a trade agreement signed by the countries in the said region.

the United States, Mexico, and Canada. In 1992, President Bush (US), Prime Minister Brian Mulroney (Canada), and President Salinas (Mexico) signed the North American Free Trade Agreement. The parties also signed two supplemental agreements on labor and environmental protection. The legislatures of the three countries ratified the agreement in 1993, and same became effective on January 1, 1994.

NAFTA included two main Supplemental Agreements which addressed concerns about businesses relocating their production and manufacturing facilities to other participating countries for the purpose of exploiting lower wages and lenient worker health and safety regulations. The first Supplemental Agreement was the North American Agreement on Labor Cooperation (NAALC),which protected factory workers from potential job losses. The second Supplemental Agreement was the North American Agreement on Environmental Cooperation (NAAEC). NAAEC addressed environmental concerns on the potential impacts of rapid industrialization in Mexico as a result of its lack of experience in enforcing environmental regulations.[51]

The major provisions of NAFTA included:

i. Tariff elimination for qualifying goods and services. NAFTA provides for standards on health, safety, and industry. It also increased the speed of export-product inspections and certifications at the border and elimination of the use of national standards as a barrier to trade. NAFTA further provides administrative, civil, and criminal penalties that would be imposed on businesses that violated any of the agreed custom procedures and standards requirements. NAFTA ensures duty-free access to a vast number of areas, such as construction, engineering, manufactured goods, consulting, health care management, accounting, and so on.
ii. NAFTA also eliminated non-tariff barriers by streamlining border processing and licensing requirements and reducing the waiting time for goods clearance.
iii. NAFTA included provisions which increased protection of intellectual property rights, such as computer software and chemical production. Member countries agreed to enforce rules that would protect the intellectual property rights of other members and take punitive measures against intellectual property theft.
iv. NAFTA provided rules for resolving trade disputes among investors, businesses, and participating countries. NAFTA required traders to promote fair competition and uphold all regulations of the treaty. NAFTA Secretariat is tasked with taking measures to resolve disputes among businesses. If parties are not satisfied with the outcome of the process, the Secretariat establishes a panel to review the dispute and ensure that the parties reach an amicable solution.

7. REGIONAL CO-OPERATION IN AFRICA

The fragmentation of Africa into several nation States with scant economic coherence led African leaders to embrace regional integration as a central element of development strategy after the attainment of political independence by many African nations. Regional integration was viewed by African leaders as a vehicle for industrialization with dynamic neighbourhood effects and regional spillovers as well as a means of fulfilling aspirations for continental identity, unity and coherence. Political motives, geography, and the uneven distribution of gains trumped the traditional efficiency gains across Africa's Regional Economic Communities (RECs). The small, sparsely populated, fragmented, and often isolated economies across Africa make a compelling case for these economies to integrate regionally to reap efficiency gains, exploit economies of scale, and reduce the thickness of borders.[52]

The desire to overcome the economic disadvantages of fragmentation gave rise to the signing of a number of treaties and the formation of a plethora of regional institutions in different parts of Africa. The institutions include the Customs and Economic Union of Central Africa (UDEAC) 1964 which metamorphosed into the Central African Economic and Monetary Community (CEMAC); the East African Community (EAC) 1967-1977; the South Africa Customs Union (SACU) 1969; the Southern African Development Co-ordinating Conference (SADCC) 1980 which later became the Southern African Development Community (SADC) in 1992; the Preferential Trade Area (PTA) 1981 which became the Common Market for Eastern and Southern Africa (COMESA) in 1995; the West African Economic Community (CEAO) 1972; the Economic Community of West African States (ECOWAS) 1975; the West African Economic and Monetary Union (UEMOA) 1994; and the Arab Maghreb Union (AMU) 1989. Apart from these first tier regional groupings, there were numerous sub-regional organizations which have since sprang up

51 Corporate Finance Institute, *op. cit*.
52 J De Mela and Y Tsikata "*Regional Integration in Africa: Challenges and Prospects*" (2014) Handbook of Africa and Economics, 1-22

in different parts of Africa such as the Economic Community of the Great Lakes Countries (CEPGL), the Economic Community of Central African States (ECCAS), among others.[53]

The United Nations Economic Commission for Africa (ECA) played a significant role in the formation of regional and sub-regional groupings in Africa. The ECA voluntarily offered to be involved in the planning of regional groupings in Africa and sent several delegations to many African countries in the 1960s.[54]

In the last three decades, there has been increased interest among African leaders for regional integration despite the poor results of the regionalization process for many African countries.[55] The new interest in regionalism can be explained by the effects of globalisation, increased levels of investment and economic growth and is largely based on successful economic integration experiences in Europe, America and Asia, which has compelled African States to reconsider their developmental strategies with particular attention to inter-regional trade and the need to revive the tempo of regional economic communities.[56]

In Africa, the regional integration process is often driven by political rather than economic factors. This factor, together with the problem of overlapping memberships of African countries in various regional groupings has created many difficulties including low level programme implementation, low level attendance at meetings, and difficulties in payment of subscription fees or contributions to different organizations.[57] To minimize the difficulties faced by African regional communities, the Lagos Treaty of the African Union (AU) emphasized the rationalization of economic integration in Africa and recommended the reduction in the number of recognized regional communities from fourteen to five.[58]

It has been argued that the African paradigm for regional integration is that of linear market integration, involving a stepwise integration of goods, labour and capital markets, and eventually monetary and fiscal integration, starting usually with a free trade area, followed by a customs union, a common market into the integration of monetary and fiscal matters to establish an economic union.[59] The attainment of a political union features as the ultimate objective in many African regional integration arrangements.

8. THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

The Economic Community of West African States (ECOWAS) features prominently in any discourse on African regional integration. ECOWAS is one of the oldest regional economic communities in Africa, and it has made efforts at blossoming into a robust community modeled after the European Union (EU).

On May 28, 1975 the Heads of State and Government of Liberia, Nigeria, Togo, Ghana, Upper Volta (now Burkina Faso), Ivory Coast (now Cote d'Ivoire), Guinea, Gambia, Benin, Niger, Sierra Leone, Guinea Bissau, Mauritania, Senegal and Mali signed the ECOWAS Treaty in Lagos to establish the ECOWAS. Cape Verde has since joined as the sixteenth ECOWAS Member State.

ECOWAS has been described as a manifestation of the desire for co-operation among the peoples of West Africa, as a structural embodiment of the peoples' belief in a collective attack against the enduring problems of underdevelopment in tropical Africa.[60] The perspective of economic integration and collective self-reliance is clearly visible as a goal of the formation of ECOWAS as no economy in the sub-region had firmly established any of the

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53 *Ibid*.

54 A B Akinyemi and I A Aluko, *Readings and Documents on ECOWAS* (Lagos: Macmillan, 1983) 5.

55 M Nene, "*Political and Economic Drivers of Regional Integration in Africa: A Case Study of the Democratic Republic of Congo*", South African Institute of International Affairs, Occasional Paper No. 106 (2012) 5 available at **http://www.saiia.org.za/images/stories/pubs/occasional_papers_above_100/saia_sop_106_nene_20120224.pdf**accessed on 29/9/2022.

56 *Ibid*.

57 *Ibid*.

58 *Ibid*.

59 T Hartzenberg "*Regional Integration in Africa*", World Trade Organization Staff Working Paper ERSD-2011-14,Trade Law Centre for Southern Africa (2011)2 available at **http://www.wto.org/english/rese/resere/ersd201114_e.pdf** accessed on 29/9/2022.

60 Akinyemi and Aluko, *op. cit*.

pillars of an industrial economy such as iron and steel complex, the machine tools complex or the petro-chemical complex at the time of formation of ECOWAS.[61]

After the initial problems of historical and linguistic difficulties arising from the delineation of West Africa into Anglophone West Africa (being English speaking West African countries) and Francophone West Africa (French speaking West Africa), ECOWAS is fast emerging as the vanguard of regional integration in Africa.[62] ECOWAS is envisaged as a stepping stone towards a fully-integrated African Economic Union (AEU).[63]

There have been several arguments for and against ECOWAS regional integration. The arguments in favour of integration usually list the gains of ECOWAS integration to include enlarged market, efficiency through competition, stepping stone to global integration, stronger voice as a regional bloc in global trade talks, increased credibility due to locked in policy that seems to confer legitimacy of a number of regimes, the breaking of the power of selfish national interest groups preventing reforms, particularly democratic reforms, greater likelihood of regional peace through increased mutual understanding, increased regional security through common security measures, the possibility of shaping shared foreign policy, the enhancement of Africa's image abroad, facilitation of cultural and educational exchanges, co-operation in broadening the democratic process and increased legal security for citizens of the region.[64]

The arguments against regional integration in West Africa include the danger of the weak economies becoming more dependent on the strong economies, increase in the gap in the levels of development due to the disparities in the benefits accruing to ECOWAS member States, fear of political domination, the danger of free-riders (States who do not contribute to the integration process) benefiting from integration by their mere presence in the sub-region, and the danger of increased bureaucracy consuming a disproportional share of public money.[65]

The conditions that led to the establishment of ECOWAS have been identified to include largely export based economies, little industrial capacity of West African States, adherence to the rules of market-oriented capitalist economy, heavy dependence on foreign aids (except Nigeria), and the need for cordial relationship between the governments of the sub-region.

ECOWAS started on a difficult footing. There was the crisis of seniority in the Community's hierarchy between the Director of ECOWAS development funds with its headquarters in Lome, Togo and the Secretary-General of ECOWAS with the Secretariat in Lagos, Nigeria. Each claimed to be the head of the ECOWAS institutions. After two years of dispute over the correct interpretation of the ECOWAS Treaty, it was resolved that the Secretary-General should head the ECOWAS. ECOWAS thereby started operation in 1979. When it started operation, ECOWAS integration processes were vigorously pursued. The 1979 Protocol on free movement of persons allowed visa-free travel within the Community for stay up to three months.
Fresh problems however cropped up when the General Buhari regime expelled illegal immigrants, mainly Ghanaians from Nigeria following a drastic slump in oil prices at the time. The expulsion of over a million Ghanaians from Nigeria at the time of distress called to question Nigeria's commitment to the spirit of the ECOWAS Treaty. This triggered a serious crisis of confidence among several ECOWAS member States, particularly between Ghana and Nigeria.[66]

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61 *Ibid*.

62 D van den Boom, "*ECOWAS - How Regional Integration Works in West Africa. A Handbook for Journalists*", Capacity Building International, Germany Federal Ministry for Economic Cooperation and Development (2009) available at **http://www3.qiz.de/imperia/md/content/a-internet2008/iij/ecowas.pdf**accessed on 6/9/2012.

63 *Ibid.*

64 *Ibid*.

65 *Ibid*.

66 The problem has become somewhat intractable. The improvement in the Ghanaian economy has ironically attracted many Nigerians to Ghana. There have been repeated complaints of ill treatment of Nigerians by Ghanaian authorities. See *Newswatch* magazine report of Sunday, July 22, 2012. The magazine reported that about 2,000 Nigerian businessmen in Ghana may return to Nigeria due to harsh economic policies and that they are planning to take their case to ECOWAS.

Despite the challenges, ECOWAS has consolidated on the opportunities for regional co-operation and integration. The first plan was to remove all barriers to trade within ECOWAS under the Trade Liberalization Scheme meant to be finalized in 1990. The scheme has been slowed down due to disputes over the 'rules of origin' involving the definition of a product as locally-produced and therefore eligible for exemption from customs duties, thereby slowing down the implementation of that scheme till date. There have been plans to build integrated road and rail network, including the trans-coastal highway project. The West African Gas Pipeline Project is ongoing.

A major achievement of ECOWAS was the establishment of Ecobank, which started as a private sector bank with ECOWAS holding ten percent of its shares. Ecobank has contributed immensely to the integration of banking services in West Africa and to the accessibility of financial services for ECOWAS citizens. There has been a plan to establish a monetary union since 1992 which has faced several setbacks and challenges.

In 1992, ECOWAS Heads of State and Government decided on a 'minimum agenda for action' which was intended as a tool to achieve progress and centered on the printing and distribution of standardized ECOWAS customs and immigration forms, abolition of check-points and road-blocks on international highways, simplification of immigration procedures, especially at airports, establishment of transit points to accelerate customs formalities, abolition of all non-tariff impediments to internal trade, support for the use of national currency in intra-regional transactions, and printing of an ECOWAS passport as well as an ECOWAS residence permit. Among the lofty agenda, the ECOWAS passport appears to be the only project successfully achieved by a number of ECOWAS States so far.

Owing to the difficulties encountered, the ECOWAS Heads of State undertook a review of the ECOWAS Treaty in order to reform the institutional framework of ECOWAS. Following the challenges encountered from the ECOWAS Monitoring Group (ECOMOG) security intervention in Liberia during the civil war in that country, the ECOWAS Heads of State launched an Eminent Persons Group headed by General Yakubu Gowon, to propose a new treaty and institutional framework for ECOWAS. That effort resulted in a new treaty which was later signed thereby re-energizing ECOWAS.

There is in place a common security policy for regional conflicts. The West African Power Pool and the joint telecommunications policy are also on. ECOWAS now has new institutions and programmes.

9. COMPARATIVE ANALYSIS OF ECOWAS AND THE EUROPEAN UNION

It is generally accepted that from an African perspective, ECOWAS remains a shining example of regional co-operation and integration. For anew ECOWAS with institutions tailored after the European Union (EU), the future appears quite bright. Many EU institutions have similar or identical names as ECOWAS's but EU institutions perform different or more elaborate roles. EU Commissioners wield powers that bind EU members States and their citizens unlike ECOWAS Commissioners. While the EU has succeeded in giving member States' citizens equal rights wherever they live within the EU, ECOWAS is still lagging behind. The EU States now use the Euro whereas the Eco is still a very tall dream. To accelerate the rate of integration in West Africa, ECOWAS member States are urged to "surrender some measure of sovereignty" in order to achieve the success of the integration schemes".[67]

It cannot be over-emphasized that the surrender of some measure of sovereignty is key to the success of any regional co-operation or integration efforts. Without nations willingly giving up some of their sovereign rights and handing over same to some supranational or regional intergovernmental institutions, regional co-operation would remain a mirage. Within the European Union, integration has gone so far as to make the EU some kind of a modern unique federal State based on the principle of subsidiarity where EU member States have delegated certain aspects of their sovereign rights and privileges to the EU institutions. The EU Treaty is no longer interpreted with the principles of other supranational or international organizations. A new set of EU Community jurisprudence and principles have emerged from the European model of integration thereby setting new standards for regional co-operation and integration.[68] Having chosen the EU model of regional co-operation and integration, ECOWAS member States should go the whole hog to adjust their sovereignty towards strengthening ECOWAS institutions in order to achieve the goals of regional co-operation and integration in West Africa. The success of ECOWAS integration would further strengthen the dreams of an African Economic Community of the African Union.

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[67] Akinyemi and Aluko, *op cit*.

[68] See T C Hartley, *The Foundations of European Community Law* (3rd edn., Oxford: Clarendon Press, 1994).

10. DISINTEGRATION IN THE EU AND ECOWAS

While celebrating the successes of the EU and ECOWAS, the issues emanating from the withdrawal of the United Kingdom (UK) from the EU and the threats of some Sahel States to withdraw from ECOWAS require serious interrogation. The UK became a member of the EU in 1973. After spending about 50 years as a member of the EU, the UK withdrew its membership of the EU on 31 January, 2020.

In the West African sub-region, Niger, Mali and Burkina Faso are among the 15 countries that signed the Economic Community of West Africa States (ECOWAS) Treaty in Lagos, Nigeria in 1975. The countries that signed the Treaty of Lagos were Benin, Burkina Faso, Cote d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Sierra Leone, Senegal and Togo. Cabo Verde[69] joined ECOWAS in 1977. Mauritania, the only Arab-speaking member of ECOWAS withdrew its membership of ECOWAS in December 2020, although it signed an associate membership agreement with ECOWAS in August 2017.

Before leaving the EU, the UK followed a rigorous process of exit, beginning with a referendum on 23 June, 2016. Thereafter, the formal process of the UK exiting the EU began on 29 March, 2017 and was followed with an agreement with the EU in November 2018. Again, after formally exiting on 31 January, 2020 there was a transition period of 11 months for finalizing the exit process. The advantages of Brexit include reclamation of sovereignty, avoidance of UK's contribution to the funding of the EU, strict control of immigration into the UK, increase in employment opportunities, increased participation in international trade for UK firms and national security. The disadvantages of Brexit include loss of foreign investment, limited access to shared intelligence in Europe, shortage of high skill labour, expulsion of UK nationals from the EU, rise of average cost of living, among others.[70]

Unlike the experience in the EU, disintegration in the ECOWAS sub-region is influenced by other factors. The notice of withdrawal from ECOWAS issued by Niger, Mali and Burkina Faso was a reaction to the stance of ECOWAS leadership demanding for a return to democratic rule after military juntas took over the said countries.[71] The notice of withdrawal was thus actuated by reactionary tendencies. The leaders of the junta, in their notice stated that they are leaving ECOWAS because ECOWAS has "drifted from the ideals of its founding fathers and the spirit of Pan-Africanism."[72] The juntas stated that ECOWAS "was under the influence of foreign powers, betraying its founding principles, has become a threat to member states and peoples" and that the regional bloc has failed to help them to tackle the jihadist violence in the Maghreb.[73]

While Brexit appears to be the popular withdrawal from the EU in recent times, it is not the only one in the history of the EU. Greenland, which joined the EU in 1973 as part of Denmark, withdrew its membership of the EU in 1982.[74] French Algeria was a member of the EU from 1957 to 1962 when Algeria got independence from France.

Exit from ECOWAS is similar to that from the EU. It begins with a formal notice to the Union and is followed by a series of meetings and other requirements, including holding a referendum in some instances in the EU.[75] The UK withdrew from the EU following a referendum. In the ECOWAS scenario, the Sahel States were first suspended by ECOWAS for military overthrow of the democratically elected Governments. It was in response and for fear of ECOWAS military intervention to restore democracy that the said countries notified ECOWAS of their

69 Also known as Cape Verde in English, Cabo Verde is a Portuguese speaking nation on the Atlantic Ocean off the western coast of Senegal.

70 Shreeya Shrestha, "*11 Advantages and Disadvantages of BREXIT*" (2021) available at https://honestproscons.com/advantages-and-disadvantages-of-brexit/ accessed on 2 February 2024.

71 BBC news report, "Niger, Mali and Burkina Faso have announced they are leaving the Economic Community of West African States (ECOWAS)" available at https://www.bbc.com/news/world-africa-68122947 accessed on 2 February 2024.

72 *ibid*.

73 *ibid*.

74 Rebecca Leppert, "*How exactly do countries join the EU*?" (2022) Pew Research Centre.

75 Article 50 of the Lisbon Treaty.

withdrawal.[76]

While disintegration in the EU is based on reasons of immigration, budget and household economics, the withdrawal of the Sahel States from ECOWAS and the disintegration process engendered thereby are based more on continuous Western exploitation of Africa countries. In the case of the three Sahel States withdrawing from ECOWAS, their primary reason is unchecked French exploitation of their economies without any reprisals from ECOWAS.[77] While the reason for disintegration in the EU bloc may be somewhat different from those in the ECOWAS bloc, the common denominator is that where members of a regional bloc appear not to be benefiting from the regional bloc, disintegration becomes inevitable.

11. CONCLUSION

The objectives of regional integration must be regularly reviewed by the regional bloc and the members States to ascertain its relevance and efficacy at all times. Shared economic prosperity and political stability should be vigorously pursued. Harmony and co-operation among members of a regional bloc should be sustained in order to encourage the members not to resort to their sovereign rights. Where the objectives are not achieved, members of the bloc would assert their sovereignty thereby weakening the regional bloc. Since the challenges of regional integration are intertwined with the principles of sovereignty and the readiness and willingness of member States to delegate part of their sovereignty to the appropriate organs of the supranational governance of the regional bloc, every regional bloc must work towards ensuring that members have value for their membership.

In the EU experience with the UK, disintegration became inevitable because of the perception of certain disadvantages of EU membership to the UK. The belief that UK jobs are taken over by EU members and the fear of immigrants overtaking their economic propelled UK's exit from the EU. For ECOWAS, the challenges of political instability and the perception of Western exploitation of African countries are the reasons pushed forward by the Sahel States of Niger, Mali and Burkina Faso for their withdrawal from ECOWAS. ECOWAS needs to tackle the challenges posed by the notice of withdrawal by the Sahel States. The leadership of ECOWAS, especially the Authority of Heads of States and Government, have the onerous task of truly integrating the West African sub-region by adopting full-length the EU style of federalism, by truly delegating part of their sovereignty to the appropriate organs of ECOWAS, in order to make ECOWAS achieve its basic objective of regional integration.[78]

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76 The Punch newspaper online, "Niger, Mali and B'Faso withdrawal exposes ECOWAS failure to unite W' Africa" available at https://punchng.com/niger-mali-bfaso-withdrawal-exposes-ecowas-failure-to-unite-wafrica accessed on 2 February 2024.

77 *Ibid*.

78 B Maiangwa, "*Assessing the Responses of the Economic Community of West African States to the Recurring and Emerging Security Threats in West Africa*" (2015) Journal of Asian and African Studies, 1-18.