Development Mechanism in Africa and the Abuja Treaty/African Community, 1991-2000.

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Abstract

The article examines development mechanism in Africa: African Economic Community/Abuja Treaty, 1991-2000. The study assesses the coordination, harmonization and progressive integration of the activities of the existing and future Regional Economic Communities (RECs) in Africa. The research work evaluates the gradual removal of obstacles to free movement of persons, goods, services and capital in Africa, and the core objective of AEC is to promote economic, social, cultural development and integration of Africa's economies in order to increase indigenous self-sustained development, aimed with pan-continental economic community by 2028. The paper ex-rays the implementations of AEC through reformation, transformation, re-lunching and revival of the regional economic groupings. The article highlights AEC's challenges through the unwillingness of member States to ratify the treaty in time. The research work concludes that the Abuja Treaty provides a framework for re-examination of its roles. The paper recommends effective regional economic commission's framework to achieve economic cooperation.

Introduction

The failure of the Lagos Plan of Action to promote Africa's economic revival in the 1980s led to the articulation of a new framework for Africa's economic development by African leaders in 1991 and the growing tendency on what was actually wrong with Africa, mostly lack of democracy and so much state interference in the economy took a center stage, then, confrontation with the developed world over the evils of dependency generated by the global capitalist system gave way to 'dialogue'.

Thus, the origin of African Economic Community (also called the Abuja Treaty), and indeed, the adoption and promulgation of the African Economic Community (AEC) at an OAU (Now AU) Summit in June1991, which came into force in May 1994, after the requisite members signed up for ratification, (Anaemene & Bolarinwa, 2017, p.45). It could justifiably be considered the first concrete step towards meeting the challenges of underdevelopment and poverty in the 1990s and also seen as a drive towards charting a new path based on the collective wisdom and the collective strength of African nations.

In 1980, in fact, when the OAU Extraordinary Summit adopted the Lagos Plan of Action, the LPA attempted to develop itself as a major step towards the goal of African -integration. The AEC Treaty-otherwise known as' the Abuja Treaty provided for the African Economic Community to be set up through a gradual process, which would be achieved by coordination, harmonisation and progressive integration of the activities of existing and future Regional Economic Communities (RECs) in the continent (Bolarinwa, 2010, Pp.77-78). The main aim was to establish a Pan-continental economic community by 2028, predicated on the 'gradual removal, among Member States, of obstacles to the free movement of persons, goods, services and capitals' (Asante, 1991, p.210).

From the beginning of the establishment of the OAU now AU, African leaders had recognised that cooperation and integration among African countries in the economic, social and cultural fields are indispensable to the accelerated transformation and sustained development of the African continent. This was concretized in 1963 in the objectives of the OAU Charter, as well as in the OAU Summits of 1973 and 1976, and the Monrovia Declaration of 1979. In 1980 the OAU

Extraordinary Summit adopted the Lagos Plan of Action, as a major step towards that goal.

The commitments in the Lagos Plan of Action and the Final Act of Lagos were translated into concrete form, in Abuja, Nigeria, in June 1991 when the OAU (Now AU) Heads of State and Government signed the Treaty establishing the African Economic Community. The AEC Treaty has been in operation since May 1994 when the required number of instrument 'of ratification for its coming into force was deposited with the Secretary-General of the OAU/AEC.

However, at the regional and sub-regional levels, African countries have embarked on various programmes for the promotion of integration and have established Organisations and institutions to support their effort. So far, the AEC has established direct working relations with the Economic Community of West African States (ECOWAS) in the West African region, the Economic Community of Central African States (ECCAS) in the Central region, and in the East and Southern regions, the Common Market for East and Southern Africa (COMESA). In the Southern Region, the AEC has been dealing with the Southern African Development Community (SADC). Also, in North Africa, there is the Arab Maghreb Union (AMU) which has no direct contact with the AEC, so far. Apart from these Regional Economic Communities (RECs), there are other groupings like the Economic and Monetary Union of West Africa (UEMOA) and the Customs and Economic Union of Central Africa (UDEAC), all of which are engaged in the promotion of African economic integration. All these Organizations were already in existence and operating when the AEC Treaty was signed in Abuja in June 1991. The major characteristics of the African Economic Community compared to similar communities is that it is being established in six stages, according to the provision of the Abuja Treaty (Articles 6 and 88), mainly activities of the RECs. This makes the AEC different from other integration organisations. In fact, the Abuja Treaty makes it clear that the establishment of the AEC is the final objectives towards which the activities of all the RECs (existing and future) shall be geared (Article 88), transition period not exceeding thirty-four (34) years, from the date of entry into force of the Treaty. The following are the six stages: 1.To be completed in 1999) Creation of Regional blocs in regions where such do not exist. 2.To be completed in 2007) Strengthening of intra-REC integration and inter-REC

harmonisation. 3. To be completed in 2017) Establishing of a free trade area and customs union in each regional bloc. 4. To be completed in 2019) Establishing of a continent-wide customs union (and thus also a free trade area). 5. To be completed in 2023) Establishing of a continent-wide African Common Market (ACM). 6. To be completed in 2028) Establishing of a continent-wide economic and monetary union (and thus also a currency union) and Parliament.

Assessing the Objectives of the AEC: The African Economic Treaty establishing the African Economic Community was adopted by the Organisation of African Unity (OAU) heads of State Meeting in Abuja, Nigeria, on June 3, 1991. The adoption of the treaty must be seen as vital for Africa's economic survival faced as the continent growing marginalisation in the world. **The objectives of the Community, as set out in article 4 of the Treaty, are as follows:** (a) To promote economic, social, and cultural development and the integration of African economies in order to increase economic self-reliance and an indigenous and self-sustained development. (b) To establish, on a continental scale, a framework for the development, mobilisation and utilisation of the human and material resources of Africa to achieve a self-reliant development. (c) To promote cooperation in all fields of human Endeavour to raise the standard of living of African peoples and maintain and enhance economic stability, foster close and peaceful relations among member States and contribute to the progress, development and the economic integration of the continent; and d) to coordinate and harmonise policies among existing economic communities in order to foster the gradual establishment of the Community (Bolarinwa, 2010, p.84).

Assessing the Relationship between African Economic Community (AEC) and Regional Economic Communities (RECs): The Abuja Treaty has accorded special recognition to the critical role of the Regional Economic Communities in the stages of establishing the African Economic Community. Accordingly, a Protocol has been concluded on Relations between the AEC and RECs, which should serve as an effective instrument and framework for close cooperation, programme harmonisation and coordination as well as integration among the RECs on the one hand, and between the AEC and RECs on the other. This Protocol has the major advantage of enhancing the status and role of the OAU now AU Secretariat which was also the Secretariat of the AEC, in all matters pertaining to the implementation

of the Abuja Treaty. In November 1996, the Economic and Social Commission (ECOSOC) of the AEC held its first ministerial session in Abidjan, Cote d'Ivoire, and inter-alia adopted its work programme which is designed to accelerate the integration process in the continent. The AEC Assembly of Heads of State and Government held its inaugural session in Harare, Zimbabwe on 2 June 1997. This was a momentous occasion in the process of African economic integration. The session was addressed by the then 'Chairmen of ECOWAS, COMESA, ECCAS, IGAD, SADC and UMA, on the progress achieved in their respective regions in the implementation of the AEC (Riechenberg, 1995, p.65). The AEC Treaty was the foundation of an attempt to create an economic community covering the whole of Africa, a continent with 53 sovereign states as at then. If it were successful, the African Economic Community would have been the largest economic integration organisation (in terms of membership) in the world.

In 1994, the AEC Treaty entered into force as observed in the section above. The treaty envisages the creation of an African Economic Community over a period of (34) thirty-four years using six defined stages of evolution'. Rather than start from scratch, the AEC uses existing RECs as the building blocks of the African Economic Community. (AU, 2006). In other words, progress by the RECs is progress for the AEC and a step closer to the African Economic Community. Article 88(1) of the AEC Treaty, the African Economic Community 'shall be established mainly through the coordination, harmonisation and progressive integration of the activities of (RECs). The RECs are ultimately to merge or be absorbed to form the African Economic Community. This is a unique and quite complicated approach to economic integration. Usually, countries form economic community's free trade areas, a customs union, economic unions or complete economic integration.

One may also query whether the AEC had the will or legitimacy to impose its vision of an African Economic Community on the RECs. (COMESA, 1993). The RECs are legal systems on their own right, unlike the AEC, they are expressly endowed with separate legal personality. (Shams,2005:56-57). Therefore, the AEC Treaty did not have a membership provision or criterion but assumed all African States as potential members. By becoming fully signed-up members of the AEC, the RECs will be bound by all AEC laws, including laws that aim at rationalizing and coordinating their activities.

Relationship between African Union (AU) and the AEC: In reality, Africans have long aspired to be politically united. The OAU was the first step towards this goal. However, economic integration and political unification are two distinct ideas. These two ideas should not be convoluted. They need not be pursued together. Indeed, the former is definitely achievable without the latter. According to Kufour, a principal problem with economic integration in Africa is the non-realisation of this truth (kufuor, 2005, p.133). In Africa, there has been a convolution of these two ideas. This convolution of ideas has led to an inappropriate structuring and fusion of institutions, which the objectives of economic integration were ultimately ill-served.

Importantly, the AEC problem of mixing the economic with the political began when its founding treaty declared in Article 98(1) that the Community shall form an integral part of the Organisation of African Unity (Kufuor, 2005, p.134). Article 99 went on to declare that the treaty and protocols adopted under it shall form an integral part of the OAU Charter. With these provisions, it appears that the drafters thought it unnecessary to expressly give the AEC a separate legal personality; accordingly, the treaty is silent on this issue. What was meant by an integral part' was not defined.

Most importantly, the immediate effect of these provisions was that the institutions or organs of the OAU were co-opted to perform the functions of the institutions established by the AEC Treaty. There appears to have been no careful thought as to whether, as then structured, the OAU institutions suited the needs of economic integration. The Constitutive Act of the African Union did not address this problem. After passing references to the African Economic Community in the preamble, it simply provided that the `Act shall take precedence over and supersede any inconsistent or contrary provisions of the AEC Treaty.' The use of the organs of the OAU (now the AU) was also the basic organs of the AEC. These organs are ill-equipped to meet the challenges of integration. The effect of this fusion of institutions has been the loss of identity of the AEC. Indeed, as he graphically puts it, the AEC had no `letterhead of its own,' it 'had, in fact, become just a division, albeit an important one, of a continental political institution. 'In his view, 'the AEC surely required distinct and separate institutional arrangements.

The African Court of Justice was, perhaps, the -best example of the inappropriateness of the convolution of institutional roles.

The Court of Justice of the AEC was to be an important institution for the enforcement of AEC law. It was to be independent of all the other community institutions. Its mandate was to 'ensure the adherence to law in the interpretation of application of (the AEC Treaty) and shall decide on disputes submitted thereto pursuant to (the AEC Treaty).'(Asante, 2001:23-24). The detailed law regulating the court was to be set out in a protocol. But, it appears that this distinct court devoted to economic integration issues will never be established. Its functions will now be performed by the African Court of Justice and Human Rights (African Court of Justice). The relationship between the AU, AEC and Africa's RECs is complex. It does not appear that treaties and protocols are adopted with a much careful thought on the complex legal issues involved in economic integration. The newly established African Union Commission on International Law will devote considerable space on its agenda to the legal aspects of economic integration on the continent. (Bolarinwa, 2010:104).

Assessment of the African Economic Community and the Promotion of Intra-African Trade: The economic integration of Africa was the central theme of the 1980 Lagos Plan of Action, the special United Nations Session on Africa in 1986 and numerous other high-level statements and reports on African policy and development strategy. For a while it has found expression in the creation of the Africa Union.

The economic integration is perceived by many African leaders and governments as a promising vehicle for enhancing economic and social development in their respective countries. This can come about through the reinforcement of the regional infrastructure, a more efficient system of payment, greater markets, greater access to credit, a more inter-related system, a greater mutual awareness among economic agents operating in the different countries and, above all, through a growing technical complimentary and a greater development and integration of the productive sectors of African countries.

It has been observed earlier, there are several African integration schemes, these include the Community for East and Southern African States (COMESA), the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), the Central African Customs and Economic Union (EDEAC), the African and Malagasy Common Organisation (OCAM), the Comite Permanent Consultatif du Maghreb (CPCM), the Economic Community of the Great Lakes Countries (ECPGL), and one may add the South African Customs Union (SACU). As most of these have achieved very little, the traditional explanation of the failure of integration schemes in Africa is that there is lack of political will in the member countries that is necessary to see integration succeed, expressed in the chronic non-observance of commitments undertaken within the respective agreements and in the insufficient use of the instruments set up by these agreements (Maluwa, 1989, p.299).

Implementations of the Abuja Treaty (AEC): The Abuja Treaty marked the beginning of a shift in the orientation of an approach to Africa's regional integration and cooperation. This was reflected in the character of post-Abuja regional initiatives, which were based on the precepts of economic openness and market efficiency. These initiatives embraced different principles "for achieving progressive economic cohesion than their fate-driven predecessors which were based on protectionist, closed economy policies of the kind which typically pervaded development thinking in Africa, for some decades.

In this regard, the signing of the Abuja Treaty, rather than being the culmination of the LPA inward-looking regionalism, could be seen as marking the beginning of the capitulation of African governments to the ethos of the liberal paradigm. Not only did the Abuja-inspired regional groupings reflect respect for and observance of certain fundamental principles and basic undertakings, they equally shifted the exclusive focus on government, to involving the people, non-governmental organisations (NGOs), the civil society and the private sector.

This shift from states to markets, influenced by externally imposed Structural Adjustment Programmes (SAPS), has aimed at revamping the African development model since 1985. This shift has resulted in what Percy Mistry has seen as "second generation" integration attempts, gathering steam since 1992,

certainly under the behest of the Abuja Treaty. In principle, this new approach abandoned the "ossified, static, protected-fortress approach" to integration among closed, state-run economies. It has been seen as "a means of consolidating national economic policy shifts, towards greater liberalisation, market orientation, competitiveness and efficiency (Asante, 1997, p.181). Furthermore, like the LPA, post-Abuja regional integration initiatives have had to rely on achieving these ambitious objectives at the sub-regional and regional levels, before attempting to achieve them at the global level, in a world where Africa has yet to overcome a large number of disadvantages in order to compete (Mistry, 2000, Pp.559-560).

Therefore, like the LPA, regional economic communities are central building blocks of the Abuja Treaty's objective of establishing a Pan-African community. And although the Abuja treaty was signed in disregard of the failure of Africa's sub-regional communities to achieve their stated objectives, it inspired the reform and transformation of the continent's regional economic groupings, supposedly making them more likely to attain stated goals. For instance, it led to the transformation of the PTA into the Common Market for Eastern and Southern Africa (COMESA) in 1994, it also saw the transformation of the Southern African Development and consultative Council (SADCC) into the Southern African Development Community (SADC) in 1992; the re-lunching of the activities of the Economic Community of Central African States (ECCAS) in 1998; the revival of the defunct East African Community (EAC) in 1999; and more importantly, it was one of the influential factors coupled with the changing times of that era that brought about the review of the ECOWAS Treaty in 1993(Asante, 1997, p.90).

The AEC is believed to have inspired the 'revised treaties' of the various regional communities which are said to be more elaborate, containing measures that could help overcome the obstacles that bedeviled the implementation of the earlier initiatives and specific arrangements to enforce treaty agreements. Of particular importance are measures to harmonise national strategies and policies with those of the region and to refrain from any unilateral action that could hinder the attainment of the regional objectives. For example, member states have-pledged, in accordance with their respective constitutional procedures, "to take all necessary measures to ensure the enactment and dissemination of such legislation as may be necessary for the implementation of the provisions of the Abuja Treaty

(OAU, EAC, Article V), This has been in light of the fact that dissimilarities and divergences in national laws and policies of member states regulating key areas of cooperation have been a major legal impediment to economic cooperation (Asante,1997, p.93).

For the area of community institutions, the AEC treaty and the reviewed treaties of RECs seem to have endowed them with greater powers of supra-nationality than had been allowed under the LPA dispensation. For example, the Abuja Treaty establishes a transparent organic link between the supreme institution of the Community and the member states. In this regard, Article 8(3) of the treaty confers on the Assembly of Heads of State and Government, the supreme organ of the Community, the power to `give directives, coordinate and harmonise the economic, scientific, technical, cultural and social policies of member states. Importantly, the Abuja Treaty has made the decisions of the Community binding on member states. For example, the decisions of the Assembly of Heads of State, and the resolutions of the Council of Ministers are binding on member states as well as the subordinate institutions (Article 10(1) and Article 13(2)). The revised treaties of Africa's major RECs have all adopted this.

Most importantly, unlike the LPA and the earlier regional communities, ECOWAS, PTA and ECCAS, which have focused attention essentially on market integration, Abuja Treaty primarily adopts a production focused approach or, specifically, collaboration for expansion and diversification of material production. This approach emphasises broadening the regional production base and agricultural production in the framework of a variety of cooperative schemes and arrangements. It is based on 'the premise that expansion of mutual trade can take place only if the African countries are able to produce the desired merchandise in sufficient quantities to meet each other's demand. Therefore, gradual harmonisation of industrial and agricultural policies and joint industrial and agricultural planning, and production are complementary to integration. However, the Abuja treaty, like the LPA and the earlier regional economic integration schemes, has adopted the traditional linear pattern of integration with the aim of moving the continent within the space of twenty-five years into a customs union, a common market and finally the African Economic Community.

Challenges of the Abuja Treaty (AEC): It may be harsh to qualify the Abuja treaty as a failure; its fate was not different from that of the LPA. Despite its innovativeness, both in terms of goals, methods and orientation, the Abuja Treaty like the LPA has thus far remained only a declaration of intent, with minimal concrete achievements. One of its challenges was the fact the treaty was signed in 1991, but only became operational in 1994, because of the reluctant and unwillingness of member states to ratify the treaty.

The treaty failed in meeting the targets of the 1999, Creation of Regional blocs in regions where such do not exist, 2007 strengthening of intra-RECs integration and inter-RECs harmonization, 2017 establishing of a free trade area and customs union in each regional bloc, 2019 establishing of a continent-wide customs union (and thus also a free trade area), 2023 establishing of a continent-wide African Common Market (ACM), and finally the 2028, establishing of a continent-wide economic and monetary union (and thus also a currency union) and Parliament. The Sixth stage, a five-year window aimed at consolidating and strengthening the structures of the ACM, including free movement of peoples and factors of production, creating a single-domestic market and Pan-African Economic and Monetary Union, that is the establishments of African Central Bank and African currency, and a pan-African parliament could not be achieved.

There is no legal committee among the technical committees, provided for in Article 25, meaning that there is no organ specifically charged with furthering cooperation in the development of the Community trade laws and commercial practices and providing for their progressive unification. This means that the work of harmonisation of the laws and commercial practices will be carried out in a piecemeal manner by anyone of the several committees that may wish to unify a particular area of the law. This is unsatisfactory and should be immediately remedied. The implementation of community decisions will to a large extent depend on the working out of satisfactory legal instruments to implement Community programmes.

There are challenges of the use of the organs of the OAU (now the AU) as the basic organs of the AEC; the organs are ill-equipped to meet the challenges of integration. The effect of this fusion of institutions has been the loss of identity of

the AEC as there is no `letterhead of its own,' it 'had, in fact, become just a division, albeit an important one, of a continental political institution. 'In his view, 'the AEC surely required distinct and separate institutional arrangements. The African Court of Justice was, perhaps, the best example of the inappropriateness of the convolution of institutional roles. Most of the established six stages in article 6 and 88, could not be achieved.

Conclusion: Embracing all aspects of African economic and social life, the Abuja Treaty is said to provide a framework for the re-examination of the roles of the myriad of African organisations and institutions, streamlining their activities and mobilising them purposefully to address the pressing problems of African economic and social development. Given its all-embracing character and mandate, Abuja Treaty like the LPA has faced the great challenge of having to move from talk and prescriptions to action and to change the assumption that once goals for regional cooperation have been set, implementation will automatically follow. Conclusively, when an approach to development fails there is a switch to another, which in its turn, is promoted as the new fashion when that also fails to produce the required development another switch is made and so on. The chances are presented as the product of sophisticated thought about development problems, ''we are learning from experience'' is the justification for the switch but when after a few years, the new approach has achieved no more than its predecessors the same process is repeated. And if Africa's economic integration is to succeed, its legal aspects must be taken more seriously and it should be clearly divorced from the political unification agenda. Admittedly, the socio-economic and political challenges that bedevil Africa's economic integration are enormous and real. However, even if all these challenges were to disappear, there is so much in the realm of law that, if unaddressed, will still hinder the success and effectiveness of economic integration in Africa.

Recommendation: There should be effective promotions of economic, social and cultural frameworks to achieve self-reliance and cooperation within the African Continent to coordinate policies among regional economic communities for proper economic integration in Africa.

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