



National Association of Nigerian Traders (NANTS)

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COMMUNIQUE

ISSUED AT THE END OF A TWO-DAY PUBLIC-PRIVATE SECTOR DIALOGUE ON NIGERIA/ECOWAS TRADE LITIGATION GAP ORGANISED BY THE NATIONAL ASSOCIATION OF NIGERIAN TRADERS (NANTS) IN COLLABORATION WITH EU AND GIZ (NIGHTBRIDGE HOTEL, IKEJA- LAGOS, 25-26 NOV. 2015)

Background

This Public-Private Sector dialogue was organized by NANTS with support from the European Union and the German International Cooperation (GIZ) under the Strengthening Nigeria's Trade Support Institutions (SNTSi) Programme.

Participants were drawn from various stakeholders groups cutting across the relevant MDAs, regional institutions, private sector, cross border traders, legal profession, law students, media, etc.

Objective

The Dialogue was convened to examine avenues towards promoting redress for traders and other business actors in cases of violation of ECOWAS Treaty and Protocols relating to freedom of movement, rights of residence and establishment within the region. Specifically, the event focused on identifying possible strategies towards the expansion of the jurisdiction of the ECOWAS Court of Justice to cover issues relating to infraction of regional instruments regarding trade and other forms of business activities, especially the possibility of using strategic litigation in this regard. The event also explored strategies towards advocating for political action on the part of member States with a view to amending the Protocol setting up the ECOWAS Court of Justice.

Presentations

The two-day event had presentations from various experts which focused on the practical experiences and issues that call for litigation along the ECOWAS border routes, the possible legal avenues for cross border business operators to obtain legal redress in cases of infraction of regional instruments and the limitations of these avenues, proposals for addressing the challenges, etc. Presentations were followed by lively debates among participants which brought to the fore some experiences and frustrations from the field, intricacies of the jurisdiction of the ECOWAS Court of Justice, legal postulations on the applicability/enforceability of ECOWAS legal instruments in the Nigerian courts, etc.

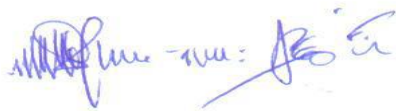
The Outcomes

At the end of the two-day event, participants arrived at some conclusions and resolved as follows:

1. That the free movement of persons, goods, services and capital within the region is fundamental to the realization of collective prosperity within the region, therefore, national governments must take all necessary actions towards complying with the regional instruments aimed at achieving a common economic space within the region.
2. That the current lack of enforcement of regional instruments by the member states occasion untold hardship for the community citizens who derive their livelihood from cross border business activities, hence the need for alternative strategies of enforcement.
3. That since the domestic courts of member states are incompetent to adjudicate on contraventions of regional instruments, there is need to have an effective regional platform for the adjudication of those infractions/infringements.
4. That the ECOWAS Court of Justice is a potential forum for the adjudication of trade related regional instruments. Therefore, there is need for advocacy towards the expansion of the jurisdiction of the ECOWAS Court of Justice (hitherto limited to human rights) to cover trade related issues as part of economic rights.
5. That Stakeholders' should advocate towards the amendment of the ECOWAS Treaty to allow for supranationality of the body as obtained in the UEMOA system.
6. That similarly, advocacy should be geared towards persuading member states to domesticate ECOWAS instruments in countries where domestication applies.
7. That the Non-State Actors should explore the option of Strategic Litigation by bringing cases before the ECOWAS Court of Justice that seek to test the extent of the human rights jurisdiction of the Court, especially since some of the trade related infractions have human rights undertone.
8. That Nigeria needs to play a more proactive role in shaping the regional integration agenda especially by complying with regional instruments and using its political and economic weight to ensure that other countries do the same.
9. That Stakeholders should liaise with and seek collaboration of public interest lawyers to initiate cases at the ECOWAS Court of Justice on possible pro bono basis.
10. That Stakeholders should also explore advocacy towards the establishment of specialised courts with trade law competence to adjudicate over trade related issues (such as customs valuation, certification, etc) at the national levels.

11. That there is need to widen the conversation to include all those working on the rule of law and regional integration, as well as members of the judiciary and political leaders at the national and regional levels.
12. That the identified gaps in trade litigation should be brought to the notice of the relevant Community Institutions and member States as a way of advocating for the necessary legal changes.
13. That business actors and law enforcement agencies who ply their trade across the borders should be continuously sensitised through workshops, seminars, publications and roadshows about ECOWAS as well as the rules and procedures for transacting business within the region, including products that are contraband.
14. That there is need to establish a mechanism to collate complaints from the business community on the infractions of regional instruments as it concerns them. This could be done through the various market traders associations. Also Nigerian traders in other countries should form or register with National Association of Nigerian Traders in those countries as a platform for obtaining information and seeking redress where the need arises.
15. That Government should develop a conscious policy towards integrating international trade law into the curriculum of Nigerian Universities as a way of developing more domestic capacity in trade law, while also recognizing the role of trade lawyers in government institutions.
16. That on the CET, the national authority responsible (Federal Ministry of Finance) should enact the CET into a national tariff regulation to allow for smooth implementation as this may contribute to reducing debates and entanglements associated with the ratification or otherwise of the CET.
17. That NANTS should set up an email platform or mobile application for collation of complaints from traders on hindrances to regional trade or work with the GIZ to popularize the Trade Related Incidents Mapping System (TRIMS) currently being piloted in Ogun State. The email or app should be widely disseminated to traders.
18. That NANTS should collaborate with other traders associations within the region for the effective realisation of these recommendations.
19. That as a first step in advocacy, this Communique should be disseminated to the relevant Authorities such as the ECOWAS Commission, Governments of the various member States, and through the media to the general public.
20. That participants, expressed appreciation to NANTS, GIZ and the EU for organizing the dialogue.

For: NATIONAL ASSOCIATION OF NIGERIAN TRADERS (NANTS)



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