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UNRECORDED TRADE FLOWS WITHIN ECOWAS

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UNRECORDED TRADE FLOWS WITHIN ECOWAS

I. INTRODUCTION

1. This study forms part of the project on "ECOWAS Trade Flows". Trade was examined from three angles: recorded trade flow, non-recorded trade flow, and trade in food, live-stock, fisheries and forest products.

II. OBJECTIVES OF THE STUDY

2. Through its overall programme as set out in Article 2 of its Treaty, ECOWAS aims at promoting "co-operation and development in all fields of economic activity, specifically industry, transport, telecommunications, energy, agriculture, natural resources, commerce, monetary and financial questions and in social and cultural matters, for the purpose of raising the standard of living of its peoples ...". This programme envisages a complete customs Union in the region by the end of 15 years. As it embarks on this process of integration it is necessary for the area as a whole, and indeed for each individual participating member country, to take stock of its real trading position. This implies knowledge of import and export in terms of quantity, nature, value, direction, etc.. Although the Recorded Trade Flows Study may have been unable to provide answers to these questions in fairly precise terms, this study of non-recorded trade flows emphasizes that there is a very significant volume of trade between neighbouring countries, and also between ECOWAS and non-member countries, which is not documented, and consequently tends to be omitted in national accounting. It seeks to highlight the various forms taken by unofficial trade, its causes, the direction of flow, the methods used and above all, its extent and general effects on the economic life of the ECOWAS area.

3. The process of trade liberalization within ECOWAS involves a degree of willingness to compromise on the part member States. Before the process begins in earnest, each member country should try to forecast how it will fit into the picture. This study of unrecorded trade is intended to contribute to the pool of information needed by ECOWAS members, either individually or as a group in order to take further, vital decisions towards the attainment of their collective goal.

III. TYPES OF UNRECORDED TRADE

4. The phrase "unrecorded trade" readily brings to mind all the familiar press reports and other stories about the smuggling of goods over frontiers. However the study is much wider in scope than that of organized or conventional smuggling. It embraces all cases in which commercial quantities of marketable goods pass over state boundaries without being properly and accurately recorded for the purposes of national accounting. Records in such cases may be either non-existent or false. This situation arises as a result of deliberate measures taken by those who seek to pursue their own selfish motives, or by those who, for any reason, are unable to appreciate the necessity for such records. Incidents of unrecorded trade may therefore occur in various forms, and these are dealt with in the sections which follow.

5. Here the goods are imported or exported through the lawful channels but the keeping of proper records is frustrated by various malpractices such as are listed under A and B Below:

A. Falsification of documents:

6. i.e. the declarations presented by the trader for documentation through customs and other port or frontier authorities do not show the true nature of the transaction. They have been deliberately distorted through;

- (a) false information in terms of brand and general description of the goods - quality, quantity, dimensions, value, etc., in order to qualify for lower rates of duty or avoid prohibition regulations. Unrecorded trade through imports/exports of this kind can be very significant in value when associated with large-scale and regular importers or exporters;
- (b) alteration or obliteration of figures and/or other vital information in shipping documents;
- (c) total suppression of relevant documentary information which would otherwise enable accurate registration of the goods in question. As in (a) and (b) above, non-presentation of the correct documents can affect the identification of the goods with regard to brand, weight, quality, quantity, etc., and consequently the correct classification for statistical purposes;
- (d) deliberate arithmetical errors on the documentary declaration. These various types of falsification all produce the same distorting effect on trade statistics.

7. It has been observed that the introduction and widespread use of the container system in moderne freighting has tended to facilitate and heighten the incidence of falsified documentary information.

B. Forgery of documents:

8. i.e. unofficial, illegal imitations of the appropriate documents are carefully prepared for a given consignment. These include invoices, bills of lading, freight and other customs declaration papers. They may be dishonestly processed through the official channels and are sometimes mutilated after they have been used in order to remove the goods from the control of the authorities.

9. Generally, the falsification and forgery of shipping and clearing documents tend to become more and more sophisticated. They can be detected only by experienced and painstaking officers - usually by means of a physical examination of the relevant goods, which are then compared with known standard specifications.

(2) FAULTY RECORDING

10. Quite often the records of given imports or exports, though kept, are so improperly drawn-up that they fall far short of reflecting the true position. As was said earlier, the inaccuracies may be due to misrepresentations in the declaration filled in by the importer/exporter. But they may also arise from the slovenly and inefficient performance of duty by customs or post officers. During the field missions the study team heard much of the familiar complaint that some of these officials show more interest in lining their pockets with 'corrupt takings' than carrying out their duty of enforcing the relevant regulations. They thus allow many irregularities to pass unchallenged, or even collude with traders in compiling false records of the consignments. Although it is not easy to determine the extent to which this complaint may be accurate, the fact remains that an inaccurately completed record of a trading transaction, whether resulting from deliberate intention or merely careless omission, nonetheless amounts to a form of unrecorded trade just as in the case of fraud.

(3) SMUGGLING

11. Formal smuggling of trade goods over frontiers is the best known avenue of unrecorded trade in the West African region, and is estimated to be the source of over half of it. A significant proportion of products arriving from industrial countries at the sea and airports, as well as land frontiers of West Africa, find their way clandestinely into the area. In other cases, goods lawfully and properly imported into the region are moved across state frontiers in disregard of Government regulations aimed at registering such transactions. Locally produced goods are also widely smuggled throughout the ECOWAS area, as well as out of the region to various foreign consumers. It is believed that a careful investigation of the trade figures of individual countries within the Community will reveal that some of them export 'local produce' items which are not normally grown within their borders, while in other instances the export figures will be out of proportion with what is actually produced in the country. This is particularly true of agricultural produce.

12. Smugglers operate for various motives, ranging from evasion of import/export duties, to maintaining consumption of banned or restricted items. In some cases there is a demand for cheaper local products from a neighbouring country where advantageous economic factors enable lower production costs. In other cases, it may be the other way round, i.e. smuggling serves to satisfy the demand for better quality, foreign products, on the part of discriminating consumers who are prepared to pay more for them.

13. It is thought that smuggling is for the most part the domain of women, while men usually engage in other forms of unrecorded trading activities, such as fraudulent declaration, pilfering, etc.. Generally speaking, frontier inhabitants tend to take to professional smuggling as a popular occupation.

(4) THEFT

14. In discussing the types of unrecorded trade in West Africa, mention must be made of the frequent acts of pilfering and theft of large quantities of landed goods which, in recent years, have plagued many of its sea and airports. These losses have tended to assume such proportions that overseas shipping companies are sometimes reluctant to accept cargo bound for these destinations, on occasion imposing stringent conditions on its acceptance. Since these missing cargoes are usually "unentered" it is believed that a very significant percentage of ECOWAS unrecorded trade occurs through this channel. Items stolen range from high-value but compact commodities such as watches and jewellery, to huge bulk products including motor vehicles. Stealing is not confined to imported goods. Local industrial manufacturers are known to have lost truckloads of their finished products between the factory gate and the distant warehouse of their distributors. Such products later find their way out of the producing countries.

(5) TRAFFIC IN CURRENCY

15. Clandestine traffic in currency is a very prominent feature of ECOWAS unrecorded trade, since it renders the latter both feasible and easy. At present six of the member countries (Niger, Benin, Togo, Ivory Coast, Upper Volta and Senegal) have a common currency - the CFA Franc, which is also interchangeable with the Malian franc, the latter being rated 2:1 to the former. Other member countries have their own local currencies. The only exception is Liberia, which uses the US dollar, a currency which is fully convertible with all other world currencies.

16. Surprisingly, the extent to which traffic in currency distorts intra-ECOWAS trade is hardly ever recognized. Yet it is common knowledge that at most ECOWAS frontiers as well as in border markets, and even in large cities throughout West Africa, "dealers" can be seen openly transacting the exchange of local for foreign currency at rates dictated by what is usually referred to as the "black" market. What is readily observable is that these rates are often far from the official parity rates of the various currencies involved. Sometimes they may be as high as four times the official parity figures, while in other cases they may be below half the official rate - all depending on the demand or supply of the individual currencies traded ^{1/}.

17. In the border stations visited the lender typically had his booth within the precincts of the check-point, where he awaited his prospective (usually distressed) customers. These were traders or passengers arriving from neighbouring countries carrying wares, but without enough money to pay for the duty assessed on them. Rather than forfeit the goods to the customs authorities, the travellers would choose to approach the lender and obtain a short-term loan at an agreed interest rate (usually a minimum of 10 per cent). They would then try to repay the loan from the proceeds of the sale of the goods, which they were allowed to take into the town after payment of the necessary duty. Sometimes they opted to sell the commodities on the spot to the border residents, at prices dictated by the buyers.

^{1/} See attached Annex I on Currency Trade.

(6) BORDER TRADE

18. As is well known, extensive border trade is bound to exist where inhabitants of adjacent countries live near enough each other to permit physical access by one group to the other. Where such conditions exist, the volume of commercial exchange between the two sides will be well-nigh impossible to determine, let alone place under control. Besides the official avenues for communication and commercial transactions, the bordering districts of two countries will generally establish numerous other channels through which they carry on the social, commercial, religious and other relations natural to human societies. The less distinctly marked such frontiers are, the higher the incidence of unrecorded trading activities. There are numerous border markets all over the West African region. In one particular country, bounded to the East, Nord and West by four different States, there are over ten of such markets on the northern frontier alone, attended by villagers from both sides of the border.

(7) OTHER FORMS

19. An ingredient common to all the forms of unrecorded trade discussed so far is that those involved are aware that their activities are somehow repugnant to government authorities. Consequently they strive to avoid being identified and possibly punished.

20. In some cases however, buyers and sellers transact their business in the ordinary course of their daily routine, without any intent to cheat, or even the simple awareness that what they are doing is in any way inimical to the economic interests of their own country. Clear examples are to be found in areas where frontiers cut across groups of people who have the same ethnic origin, social culture, religion etc.. Political boundaries of this kind cannot break these links, and consequently general (including commercial) intercourse between the two groups persists.

21. In other cases there might not be historical or tribal links between people on either side of a frontier, but owing to the extreme proximity of the two territories mutual relations develop in terms of physical settlement and general pursuit of life's daily routine. The peoples buy and sell their wares and local produce in the same market, and fraternize freely in virtually all activities other than political. Such situations exist in most parts of West Africa. One particularly problematic case was observed in the boundary sector of two adjacent countries where the two neighbouring communities, though belonging respectively to the two separate countries, transact freely in only one of the two currencies, remaining virtually ignorant of the other. Here again, government action by the countries concerned can neither establish nor check the amount of unrecorded trade carried out in this manner.

IV. CAUSES OF UNRECORDED TRADE

22. The phenomenon of clandestine or unrecorded trade appears and thrives where the appropriate incentives and factors for it exist. In this section the factors which give rise to it are examined. For this purpose trade is divided into 2 categories: trade within the Community and trade between ECOWAS and third countries.

A. Trade within the Community(i) Ignorance and insufficient Degree of civic Awareness

23. Owing to the relatively low level of education throughout West Africa, only a negligible percentage of the population appreciates the need for regulations controlling imports and exports by means of proper documentation. In addition, the insufficient degree of civic awareness generally means that the will to comply with existing regulations is lacking. Those who do comply very often do so only to avoid the punishment laid down for non-compliance, and are prepared to undermine the regulations whenever they can conveniently do so.

24. The case of ignorant unrecorded traders is not confined to border market trading. During a visit to a frontier control station "A", a trader carrying some hundreds of bags of salt from country "B" was arraigned before the customs authorities of "A". At that time the export of salt from country "B" was prohibited, while an import licence was required before it could be imported into "A". On being questioned, the trader who was a national of "A", claimed that he did enter country "B" in order to buy salt, but that his creditor from that country, who had no money to pay him, had decided to do so in kind. He did not see anything wrong with his action and could not understand why he had been arrested by the customs officials. The consignment of salt had left country "B" unofficially and would also have entered country "A" unofficially (i.e. as unrecorded trade on both sides), but for intervention of the border control authorities.

(ii) Tariff and other barriers

25. More often than not, government fiscal and monetary policy may sometimes be conducive to clandestine trading activities. Many West African countries attempt to control the consumption of certain goods or discourage external competition against local industries. This is usually done by means of high tariff walls on imports. In other cases, the need for revenue results in a very high tax being placed on export produce. To evade these high taxes and tariffs, traders often resort to smuggling.

26. Sometimes, restrictions or even outright bans on the import or export of certain goods are imposed. Soon after the announcement of these measures, or sometimes even in anticipation of their announcement, the commodities disappear from the shop counters. As the demand lingers or builds up, prices rise. Smugglers then move in to share the lucrative profits enjoyed by hoarders or speculators. They smuggle the products in or out of the country through whatever channels they can, as long as they can evade the law.

27. In other cases, import and export restrictions take the form of exchange controls. In such circumstances, private traders (mostly semi-literate) find it more expedient to resort to moving goods through unofficial channels, rather than through the usually complicated and rigorous payment procedures prescribed by government. To do this, they take advantage of the "black" market for illegal exchange of the currencies involved, at rates unrelated to the official exchange rates.

28. Some smuggling activities also arise from established consumption habits. Where a group of people become accustomed to certain types of products, such as special foods, wine brands, spirits, drugs, etc., they are sometimes prepared to pay extraordinarily high prices for them in times of scarcity. This provides an incentive for smugglers. Similar situations may also arise when local manufacturers produce goods of a far lower quality to that of their imported counterparts. As soon as the local consumers discover the difference, they tend to discriminate in favour of the imported brand, which then fetches handsome prices for smugglers.

29. As was pointed out in the study on recorded trade flows, restrictive trade policies are common in West African countries. Whatever the motives underlying their use, they are found to constitute a major cause of smuggling.

(iii) Monetary Differences and Trade Restrictions

30. The existence of different monetary systems within ECOWAS poses serious problems. On the one hand there is the convertible currency system used by the six member countries of the West African Monetary Union. The currency is the CFA franc (CFA stands for Communauté financière africaine) and the member countries are Ivory Coast, Benin, Upper Volta, Niger and Togo. The Malian franc and the Liberian dollar are now also linked to the CFA franc. On the other hand there are the 'soft', or more precisely, the non-convertible currencies.

31. Before independence, British colonies in West Africa used a common currency, under the West African Board. Now that they are independent, these former British colonies have all launched their own currencies as are of the hallmarks of their independence: the Cedi in Ghana, the Naira in Nigeria and the dalasi in Gambia.

32. The two remaining countries which belonged to what was French Equatorial Africa, namely Guinea and Mauritania, each have their own currency, the Sily and the Ougowiya respectively.

33. The two former Portuguese colonies, Guinea Bissau and the Cape Verde Islands, also have their own currencies.

34. The complex network of monetary areas within the sub-region constitutes an impediment to official trade between its countries, thus driving the inhabitants of the area to take up clandestine trade.

35. Against this background the convertible CFA franc enjoys a remarkable demand, for the simple reason that it can be spent in a comparatively wide area. Consequently, goods are smuggled from neighbouring countries into the CFA zones in order to earn cash in that currency, which can then be carried for spending in other CFA countries.

(iv) Price disparity for identical produce

36. In most West African countries the main local agricultural products are collected and exported, for fiscal and political reasons through National Marketing Boards or other Government Companies. Such Boards operate by fixing the prices payable to farmers through their buying agents. It often happens that in areas where neighbouring countries produce identical commodities, the prices fixed and payable by government may differ widely between the two countries. Illustration of this kind provides strong incentives for farmers in the lower-priced country to smuggle their produce abroad to where they can sell it at higher rates. An interesting example of this was observed in three adjoining States A, B and C, where prices were fixed at 40, 80 and 83 (same unit of currency) per kilo respectively, for the same item of local produce. The effect was heavy movement of the item from A into B and C.

(v) Family Links

37. The arbitrary nature of frontiers as drawn by former colonial powers, without regard to ethnic and cultural affinities, has been mentioned earlier, in part I of this Report. A striking example is that of Aflao on the Ghana/Togo border, where the inhabitants with dwellings on one side of the frontier street belong to Ghana, while those of Kwadjoviakope on the other side of the same street are administered politically as Togolese nationals. The people of both sides of the street are of the same ethnic origin, have common traditions and share the same language. Sometimes members of the same family are on different sides and hence belong to two different countries. Both sides have access to Atlantic waterfront. It would be almost impossible to mount meaningful controls over the free commercial fraternization between the two groups, however determined were the two Governments involved.

(vi) Absence of Trading Organization and Co-operation

38. As is typical of a developing area, commerce in most West Africa countries is characterized by the lack of business organizations. Trading activities which would be more efficiently handled by large combines and limited companies are generally undertaken by individuals, or occasionally by weak partnerships and ill-managed co-operatives. These traders usually find it expedient to make up for their organizational and capital deficiencies by engaging in shady practices consistent with unrecorded trade, including direct smuggling of goods across national frontiers. It has proved almost impossible to reach these numerous private traders with government control measures.

(vii) Privileges and Exemptions

39. In principle, tax-free or duty-free goods, or other goods which are privileged, should not be excluded from external trade records. However, it is frequently found each year that in Africa generally, and especially in ECOWAS countries, travellers with special privileges (Heads of State, Ministers and top civil-servants) import or export goods which are never entered into records. These may take the form of official gifts or personal purchases in the course of an official mission. Obviously, it is difficult to control the activities of travellers of this kind.

(viii) Re-exports

40. The main source of statistical information on imports and exports is the customs declaration. In many cases (exemption) the good concerned cross the frontier without being recorded simply because the customs officials did not "think it a good idea" to record the product.

(ix) Size of Member Countries

41. Owing to the geography of African countries, with the arbitrary way in which their borders cut across ethnic groups, unusual situations may arise. Some countries cover an enormous area. The capital, where the impact of successive development efforts (in the form of new factories, etc.) has been greatest, may be very far distant from other parts of the country, which have remained virtually unaffected by the process of development. Out lying areas may in some cases contain a high proportion of the population. These inhabitants form a consumer market for industries located in other countries and controlled by their governments. Demand in an area of this kind, remote from the production centres of its own country, can only be satisfied from over the border. Owing to the proximity of production centres in the neighbouring country, products can arrive on the local market at better prices than domestically produced goods, which are handicapped by high transport costs. The lack of communications infrastructure means that these areas are abandoned and left at the mercy of industries based in neighbouring countries.

42. Some countries "close their eyes" to the clandestine movement of certain products, or even encourage it if it suits the needs of their own economy, either because it helps their industrial output or for other reasons.

B. Trade between ECOWAS and third Countries

43. The same obstacles as described above (tariff and non-tariff barriers) are also imposed on trade between ECOWAS and third countries. It may also be noted that there are more trade agreements between ECOWAS and Europe than there are between the Community and other African countries.

44. From the developed countries come luxury products, which are usually heavily taxed. Smugglers make every imaginable effort to avoid paying these taxes.
45. With other African countries, non-recorded trade involves products for which there are trade restrictions. These consist of agricultural and imported products, as well as works of art.
46. The opening of new transport routes (Transafrican, Transahel and Transahara Highways), for which the check-points have not yet been completed, offer a further opportunity for unrecorded trade between the Community and the rest of Africa.
47. The frequent and large-scale movement of people on pilgrimages and/or summer holidays in and out of West Africa was also mentioned as an important cause of smuggling between ECOWAS and third countries.
48. The effects of the preferential treatment envisaged by the Community for its members are yet to be felt. Nevertheless, there is every likelihood that when customs and other administrative barriers are mounted with a view to implementing preferential treatment, the volume of clandestine trade between the Community and third countries will rise considerably.

(x) The Methods used for Clandestine Trade

49. Smugglers use widely varying methods. The classical one is that used by solitary frontier-runners, columns of porters preceded by an advance party of reconnaissance men, and even by trained dogs. They cross mountain passes, use forest paths or slip across the plain at night. On coastal frontiers, goods are unloaded at lonely spots on the coast, or at an agreed point out at sea, to which an accomplice will come from the coast to 'fish up' the consignment. Cars occasionally cross customs barriers by force in some countries. However, it is more usual for smugglers to use the conventional, legal means of entry by road. In these cases, the goods are concealed in clothing or in specially fitted vehicles.

50. Some unrecorded goods are, however, previously declared. The deceit in this case relates to the type, origin, value and quantity of the goods as declared, and false documents are used.

(xi) Unco-ordinated Inter-State Trade Promotion Policy

51. Apart from the links recently forged between the West African Chambers of Commerce, there appears to be no co-ordination between the trade promotion policies of ECOWAS countries. Governments appear to be indifferent to the activities of traders within their own territory which tend to undermine the economic interests of their neighbours, so long as such activities are not considered injurious to their own economy.

V. MEANS AND TECHNIQUES

52. Despite the fact that advanced, up-to-date technology for trade control has been introduced in some countries, it had not yet been possible to stem the flow of unrecorded trade. The smugglers themselves also benefit by the same technical advances as are available to the authorities.

(1) Utilization of Lawful Methods

53. Operators are able to subvert customs monitoring devices, and so use the official entry and exit points, acting with total impunity, blatantly and in broad daylight.

54. Given adequate means of transport, smugglers are able to break through barriers and check-points set up on the authorized routes.

(2) Evasion of Lawful Access Points

55. The commonest type of subterfuge is that in which smugglers attempt to cross the frontier at points they least expect to find customs barriers.

(3) Forged Documents

56. The subtlest methods used by smugglers consist of presenting forged documents (invoices, licences, etc.) to the foreign customs authorities :

(a) Forged invoices: these are intended to avoid all or part of the taxes and duties payable;

(b) False declarations: these are intended to conceal a proportion of the goods in order to avoid paying dues on all of the consignment, thereby saving substantially;

(c) Forged licenses: these are intended to circumvent prohibitions or quotas.

57. Forged documents are frequently used by smugglers, particularly with regard to the value of the goods for customs purposes.

(4) Disguising the Goods

58. All manner of tricks are used by smugglers to disguise the true nature of goods which they wish to avoid having recorded :

(a) Smugglers always have a place or a cache where they stock-pile their goods before running them across the frontier. In some countries it has been discovered that grain-stores make excellent hiding-places for cigarettes and spirits;

- (b) The mode of concealment is dictated by the nature of the product involved. Like the fraudulent trader, the concealer is prepared to go through the lawful channels. However, before doing so, he has hatched some scheme whereby he can freight across more than meets the eye or even a different product altogether. Thus, for example, known brands of goods may be disguised under false wrapping papers, packaging covers or misleading labelling. Where goods are moved in large containers, they may be meticulously arranged so as to enable items other than those packed on the outer level to be transported at the same time. In some cases goods may be hidden under the floor or inner parts of lorries, boats or planes, while in others, carefully contrived boxes with false bottoms, double-sided cartons, etc. are widely used. Valuable but less bulky products such as precious stones, jewellery, proscribed drugs and weeds, are extensively smuggled by being concealed on the person.

599. Within the ECOWAS area clandestine trade reaches considerable proportions, and is also more rewarding than official trade since it tends to infiltrate the monetary circulation system and all levels of society, whereas official trade affects only the population masses of the large urban centres.

60. Clandestine trade is highly complex. It organized down to the minutest detail and has reached a very high level of development, with its own exit routes, its own means of transport and its own distribution networks.

(a) Exit Routes or Channels

61. For the most part these are paths which are made and controlled by smugglers. These are also official routes, which are used with a great deal of circumspection. When they use the lawful channels, smugglers display a fairly highly developed creative genius. The tricks they use are often remarkable for their cunning, and include the presentation of forged documents - false declarations and invoices - at the customs check-point.

(b) Transport

62. The means by which goods are conveyed from one State into another range from motor vehicles to human or animal carriers such as horses, donkeys and camels. Where water has to be crossed, dug-out canoes, lanches and modern speed-boats are used, all of which are easily manouvered along creeks, rivers and open water courses. Clandestine merchants are known to be habitual users of obscure and winding routes in their bid to avoid possible contact with the agents of the law. Sometimes they hire local guides to help them find their way through bush tracks, forests, coastal swamps, creeks and infrequently navigated rivers. These skilful mentors are prepared to help freight anything from an elephant to a pin across the frontier, provided the hirer pays them a handsome consideration. Occasionally guides may become dare-devil professionals, who work in heavily armed gangs and are prepared for a shoot-out with the frontier police or customs guards, should any such challenge be encountered.

(c) Multiple Deliveries

63. It has already been mentioned that some neighbouring countries have border settlements lying in such close proximity to each other that it is virtually impossible to control the movements of their respective nationals. Under such circumstances the two countries by mutual agreement, allow free movement, without visas and elaborate border formalities. The authorities challenge goods traffic only when they consider the load to be commercial in quantity. Smugglers usually take advantage of this by making many trips, taking goods in acceptable quantities for delivery in instalments to their waiting customers on the other side. A glaring example of a commodity traded in this way is motor fuel, which is usually smuggled in dozens and scores of tins or plastic cans, since it is difficult to take it across in tankers without being detected by border guards. A practice rampant among frontier inhabitants is that of making repeated trips to the neighbouring country's border towns, with the sole purpose of filling the tanks of their vehicles, which are almost always nearly empty, and the permitted one or two jerry-cans carried in car boots. The volume of unrecorded trade, taking place by this method is doubtless sizable, since this type of border situation is quite common in West African countries.

(d) Itinerant Agents

64. An interesting example of informal imports and exports is revealed in the Sahel zone of West Africa, where livestock form the main bulk of international trade. The animals are mostly reared by nomads. These border areas are very extensive, and it is very difficult to keep track of itinerant groups of herdsmen, let alone take account of the buying and selling of their animals. They are thus able to trade unchecked with herdsmen from across the border. Although some countries attempt a check on this form of leakage by issuing buying licences to their livestock traders, this measure invariably proves ineffective, since the licencees are still able to meet the herdsmen, who are scattered throughout a vast area and buy large quantities of their animals. These are then simply led across the border by the seller, to an agreed point within the buyer's own country. Motivated by the desire to evade taxes, these unofficial transactions swell the volume of unrecorded trade in the countries concerned.

(e) Ships' crews and other port agents

65. The theft of cargoes, as already mentioned, is rampant in West African ports. Additionally, ships' crews and occasionally aircraft crews and others associated with cargoes, such as ship chandlers, dockers, tally clerks, clearing and forwarding agents, etc., are known to provide active channels through which unrecorded goods enter or leave carrying vessels without clearing customs. At each end of the voyage, suppliers or receivers provide the items for export or purchase the clandestinely imported goods. The activities of these unrecorded trade agents are heightened by long, unscheduled stays at ports, such as occurred during the recent congestion experienced by some large West African ports, notably in Nigeria.

f) Agency by privileged persons

66. There are consistent allegations that high-ranking officials, including diplomats, use their position to promote unrecorded trade by importing goods (sometimes duty free) and selling them to local citizens.

(g) Transit traffic

67. It is reckoned that about 5 per cent of transit trade filters through frontiers unrecorded owing to improperly administered procedures. Some border control authorities have elaborate arrangements for the collection of administrative fees, while others concentrate on duty collection. In both cases relatively little attention is given to the actual checking of goods to determine the true particulars of the goods declared.

(h) Middlemen

68. Customs officials usually have trained informers, whom they pay off after each tip-off. The informers work for the customs authorities, but infiltrate the smugglers' network in order to obtain information on clandestine operations (date, time, route to be taken, etc.).

69. Since informers work on the principle of being payed off, operators can sometimes succeed in 'buying' the official informers by offering them more than the customs men. They are then able to take advantage of tacit complicity on the part of the official informers, so that they are able to operate with total impunity and without any fear of being caught.

70. Sometimes smugglers use the services of people deemed to be above suspicion by the customs men, either because of their social position or else because they are regularly crossing the frontier on their way to or from work. These people often cross the frontier without being thoroughly inspected by the officials, either owing to negligence or because there is a long queue.

71. When there is a 'customs union', customs impediments to trade between member countries are abolished and this can lead to a situation in which the movements of merchandise are no longer recorded. This situation is exploited by smugglers, particularly in the case of costly, small items such as precious metals or stones.

72. Operators often set up traffic in goods and currencies through immigrant workers who are resident in a country other than their own.

VI. STRUCTURE AND FLOW OF UNRECORDED TRADE IN ECOWAS

73. The rough-and-ready proposition that unrecorded trade follows the same channels as officially recorded trade is true only in the sense that smugglers invariably move in to fill a vacuum created by insufficient supply through legitimate trade channels. Smugglers, like legitimate traders, are always guided in their choice of products, routes and methods, by considerations of net profit, turnover and safety prospects. The West African region reveals a number of interesting features in this respect:

- (i) Long, circuitous routes are used in a bid to avoid border control authorities. A consignment bound for Upper Volta from Niger, for instance, may be moved first into Benin, before eventually finding its way to the intended destination, perhaps via Togo or Ghana. Similarly, a Southern Nigeria product might be conveyed via a Northern border into the Cameroon, then be taken southwards before being exported to Equatorial Guinea;
- (ii) Clandestine merchandise sometimes moves in a circle: e.g., items may leave Senegal for Mauritania, then travel through Mali back to Senegal, but via a different part of the border, where they are more likely to be readily marketable. Goods pass in either direction according to the smugglers' calculations with regard to profit and convenience;
- (iii) Smugglers frequently choose to sell their wares at border towns so as to minimize or eliminate further transport costs into the hinterland. Consequently, towns and villages located near borders occasionally enjoy cheap prices and 'regular supplies' of certain commodities which may be scarce in capitals and other large cities;
- (iv) The import of some products (e.g. second-hand clothing) is specifically banned. These items may be deliberately imported into neighbouring countries where their entry is allowed. They are then systematically smuggled into the country of prohibition, where, owing to their scarcity as a result of the official ban, they meet a ready market and fetch high profits;
- (v) Apart from occasional shady activities traceable to multinational companies, most smuggling business is carried out on an individual basis (and possibly in small partnerships).
- (vi) Goods such as spirits, cigarettes, tobacco, cosmetics, etc., which figure high in border station seizure records, are conspicuously absent in the lists of items properly declared at the same stations under legitimate traffic.

74. The commodities involved in ECOWAS unrecorded trade may be listed under four broad headings:

1. Primary produce

Livestock

Foodstuffs, such as grains, yam, beans, flour, fruits (mango, dates, bananas),
garri, fish, meat, local dairy products

Groundnuts

Export grains

Kola nuts

Onions

Cocoa

Wood and timber

Tobacco leaves

Cotton

Palm produce

2. Local manufactured goods

Textiles

Textile goods

Plastic ware

Clothes

Soap and detergents

Cigarettes

Metal utensils

Matches

Sugar

Salt

Ornaments

Vehicles tubes and tyres

Fuel oil

Dry-cell batteries

Bakers' wares and confectionary

Toilet paper

Cotton yarn

3. Foreign (imported) products

Textiles

Textile goods

Wines and spirits, etc.

Tobacco

Cigarettes and cigars

Perfumery

Cosmetics (diverse)

Watches

Jewellery

Foreign (imported) products (cont'd)

Ornaments
 Automobiles
 Clothing
 Electrical equipment (radios, television sets, gramophones, etc.)
 Building materials
 Cement
 Second-hand clothing
 Salt
 Food and beverages
 Motor cycles and pedal cycles
 Insecticides
 Dyestuffs
 Medicaments

4. Other

Precious ores (e.g. gold, diamond)
 Works of art and antiquities
 Local narcotics and drugs (weeds, tree-barks, roots and liquid preparations).

75. Generally speaking, the following products appear to be the main ones involved in clandestine trade : coffee, cocoa, groundnuts, rice and other food products, including livestock on the hoof, and diamonds, gold and petrol. The latter is sold across the frontier either because prices are higher, or because a 'down payment' may be anticipated, or because the bargaining is better or more profitable there, or because payment is in a more convertible currency (the CFA franc is the most widespread legal tender in this part of Africa).

76. It is certain that smuggling in these countries has a dire effect in their economies, especially when the country concerned has a large state-controlled commercial sector and an officially non-convertible currency.

77. Between ECOWAS and third countries, trade in commodities of local origin (whether primary produce or manufactured goods) would generally answer to the patterns dictated by geographical circumstances. Thus, dates from Algeria and Colomb-Bechar enter Mali and Niger, while bananas from Cameroon penetrate northern Nigeria.

78. Unrecorded trade between ECOWAS and third countries mostly concerns the import of manufactured goods, which either come directly by sea or air from Europe, America, Asia and Japan, or else are imported into neighbouring non-ECOWAS countries and enter the Community as re-exports from those countries. These products are listed under heading (3) above. High-duty goods such as wine and spirits, watches, jewellery, cigarettes, manufactured tobacco, cosmetics and perfumes, come at the top of the list.

Profits made by Smugglers

79. Profits from smuggling are very substantial.

80. Smugglers pay no taxes. They bypass the official channels, and thus avoid customs, paying no duty on goods imported or exported.

(i) Exports

81. On goods exported under false pretences, smugglers avoid paying the royalties due on certain types of product. They are not hampered by any qualitative or quantitative restrictions applied by the government. They may choose whatever prices they like, without being subject to restrictions imposed by law.

(ii) Imports

82. Owing to the fact that no taxes or duties are paid, smugglers cannot fail to make a considerable profit, even when they charge prices well below the standard government price. To the extent that smugglers usually deal in sought-after products, or products which are consumed on a large scale, they habitually sell their products with the greatest of ease and rapidity. The goods are injected into the consumer market and from then on become very difficult or even impossible to identify. While the honest trader is kept waiting for his customers, who will not always be the same ones, the smuggler has a regular and unfailing clientele who automatically purchase all his wares.

83. The smuggler is thus an unfair competitor of the honest trader, since:

(a) He charges unbeatable prices, so that unrecorded trade products enjoy an excellent position on the market;

(b) The earnings he makes can be used to corrupt others who may be able to assist him, and to pay off accomplices.

VII. ESTIMATE OF UNRECORDED TRADE BETWEEN ECOWAS MEMBER COUNTRIES

84. The share of unrecorded trade in the external trade of ECOWAS countries may be estimated at 20 to 35 per cent. This was the reply given to members of the ECA/ECOWAS mission by experienced officials well-versed in trade and customs matters.

85. Of this percentage, only a small fraction relates to trade between ECOWAS and other, external markets. The vast majority concerns intra-community trade.

Between Member Countries

86. Smuggling, as the handmaiden of non-recorded trade, swells notoriously with the relatively substantial volume of business between member countries in the Community. Thus, for example, non-recorded trade can be estimated to account for several billion of CFA francs worth of the annual trade between Nigeria and Benin. These two neighbouring countries, both members of ECOWAS, would appear to be large-scale trading partners when compared with the volume of trade between them and their traditional partners outside the Community.

87. Whereas official trade between Togo and Ghana barely reaches 1 billion CFA francs per year, the volume of trade passing through illegal channels is estimated at several billion CFA francs.

88. Whatever the product, it is estimated that unrecorded trade will generally be more substantial than that passing through official channels.

89. By way of example, the following table shows clearly the considerable extent of non-recorded trade in livestock moved from Mali to neighbouring countries 1/.

Recorded and Estimated Exports per Country of Country of Destination in Thousands of Heads, 1976

Country of Destination	Exports			
	Recorded		Estimated	
	Cattle	Sheep/goats	Cattle	Sheep/goats
Ivory Coast	17 600	59 700	91 000	185 000
Ghana	300	100	5 000	-
Liberia	1 700	3 100	5 000	30 000
Senegal	5 100	22 900	5 000	25 000

90. A rough method of estimating non-recorded trade consists of comparing the figures for recorded exports from the producer country with those for actual imports as registered in the consumer country.

91. The Malian Government estimates legal livestock exports at 40 per cent of the total.

1/ Source : Office du bétail et de la viande, Mali.

92. These figures take on added significance when it is realized that duty per head of livestock exported is 4,000 Malian francs for cattle.

93. Another example is that of groundnuts, for which the following data are given:

Estimated (by previous yield record) production for the year	90,000	
Less (i) estimated consumption (including planting) for the same period	25,000	
(ii) exports registered during the period	25,000	<u>50,000</u>
Balance unaccounted for:		40,000

The most probable explanation here is that this quantity has been smuggled to other countries. Going by these figures, it is tempting to conclude that Mali lost as much as 44 per cent of its principal agricultural produce to unrecorded trade activities during the period. However, the figure is only a rough estimate.

94. Similarly, some countries are thought to be importing far more than their consumption capacity in certain commodities such as textiles, wines and spirits, etc. Given the negligible level of re-export trade ^{1/} (owing primarily to excessive tariff and non-tariff barriers), it would appear that the surplus of imported goods are in fact re-exported unofficially to other countries.

95. Customs seizure records in some frontier stations tell revealing stories as to the quantity, nature, value and recurrence of particular items. Again, as an example, one station visited had recorded a total of 32 seizures in the past 3 years. Twelve of these were plastic shoes. There is a plastic shoe industry in the neighbouring country, and official exports are at a low level.

96. Other unmistakable evidence of unrecorded trade includes the presence of items of overseas manufacture which were designated (and in fact labelled) for export to some other country than the one in which they were found to be on sale. Relief materials were found which were clearly marked for countries other than the one in which they were being sold.

^{1/} A recently conducted study of recorded trade estimates intra-ECOWAS trade at 4 per cent (compared with 70 per cent for that with the rest of the world) of the total trade of the Community.

VIII. IMPACT OF UNRECORDED TRADE FLOW ON THE ECONOMIES OF ECOWAS COUNTRIES AND OF THE COMMUNITY AS A WHOLE

97. When the movement of goods is recorded, external trade statistics can be compiled and trade regulations applied.

98. Accurate statistics give the government the information which acts as a guideline for its programmes, plans and economic policies. They also enable the trade balance and balance of payments to be worked out. Any movement of goods which escapes being recorded therefore has the following consequences:

1. It distorts external trade statistics

99. Smuggled goods are not recorded. The omission, occurring initially at the point of customs declaration, is passed on and affects not only the efficiency of the external trade statistics department, but also the accuracy of the trade balance and balance of payments.

(a) Trade balance:

100. If the statistical data collected contain certain omissions owing to non-recorded trade, the trade balance deduced from it will necessarily be false. The country is unable to rely on the statistics available, either for internal purposes, or for international requirements. It is unable to discover the precise extent of trade with its partners, since the statistics are constantly below the true figures. As a result, the country cannot implement effective, continuous economic policies, nor can its export industries and import organizations be in any position to adapt to external circumstances. This situation has a damaging effect on external payments.

(b) Balance of payments:

101. External payments are effected on sight and in accordance with trade documents, so that they are influenced by any information missing in the balance of payments. Non-recorded trade, as payments are made clandestinely, by passing the official organization responsible for external payments. This means that it is impossible for the country to keep an accurate account of its currency reserves.

(c) Economic policy:

102. The imbalance affecting the trade balance and balance of payments has its worst repercussions on consumption.

103. In accordance with the law of supply and demand, production should meet domestic demand. In order to regulate the situation in accordance with this principle, the government in each country should fully be aware of all entries and exits of goods, in order to adjust prices with the maximum amount of knowledge of the circumstances involved.

104. Fraudulent exportation of goods stimulates demand, leading to a scarcity and an increase in the market price. This takes the government by surprise, if it was ignorant of the tendency to export under false pretences.

105. Fraudulent importation of foreign goods has the opposite effect. An unforeseen surplus on the domestic market increases demand and competes unfairly with locally manufactured produce. It disturbs the market by upsetting price stability. Industrial output is distorted, since industries are unable to sell products on a saturated market; earnings fall short of projected levels and, as a result, they are no longer able to meet their financial commitments. Stocks increase, since there are no outlets as long as fraudulently imported items of a similar type are available on the market. The accumulation threatens to lead to a catastrophic cut-back in output. If it continues over a long period; this situation can lead to social, political and economic upheavals as a result of the inevitable shrinkage in manpower.

2. Price distortions

106. The periodic estimates (quantity and value) of imports and exports released from time to time by West African countries cannot attain any reasonable degree of accuracy. Moreover, the general price level may frequently be subject to sudden fluctuations owing to surpluses caused by clandestine imports (or sometimes dumping), or shortages due to excessive unofficial exports of certain commodities.

3. Revenue loss

107. (a) In view of the current extent of unrecorded trade, revenue losses in most ECOWAS countries reach high levels. Revenue is lost on all smuggled goods, whether imports or exports;
- (b) Large quantities of goods are frequently lost during escape bids (e.g. cargoes jettisoned overboard during a hot chase). In addition to this loss, some countries retain goods (adopt extreme materials) seized from unofficial importers. Both these factors result in virtual losses to the countries concerned;
- (c) Where local produce for overseas markets is smuggled into neighbouring countries in order to earn higher prices or to avoid local export taxes, substantial foreign exchange is also lost to the producer country, since the smuggled goods may well be paid for in the local currency of the seller.

4. Effects on industrial development

108. Within an economic community the non-recorded movement of goods is rendered easier by the free circulation of goods. This may constitute a serious handicap for the harmonious development of the member countries. If one of the partner countries possesses more industries than the others, its neighbours are seen as a highly desirable consumer market for its industries. The more developed country can take advantage of the opportunities provided by, e.g., a customs union, to unload its produce on its neighbours, thereby enlarging its 'domestic' market and enabling its industries to expand, to the detriment of its neighbours.

109. Unless a bold policy of industrial harmonization is implemented, countries used for dumping in this way stand no chance of experiencing the benefits of industrialization.

110. This is a highly important aspect, since by the criteria normally used in setting up an industry landlocked countries are always the most disadvantaged owing to their vast distance from the coast and their poor communications infrastructure.

5. Currency leakage

111. As mentioned above, unrecorded trade is often associated with currency trafficking. This in itself is a sure source of instability, as it not only depletes the supply of money designated for internal circulation, but ultimately tends to disrupt the parity levels of the various currencies of the countries concerned (see Annex I for "black market" rates of exchange).

6. Social effect

112. When for various social and political reasons governments control the consumption of certain commodities, unrecorded trading activities tend to negate the government's actions. In addition to items of food which are quite possibly unfit for human consumption, large quantities of which still find their way onto markets all over West Africa, cannabis and other prohibited drugs are also widely peddled.

113. One possible argument is that liberalization and minimal controls/restrictions would remove the incentives to smuggling and its allied trading practices. However, it is also thought that a key step towards successful liberalization of intra-ECOWAS trade lies in the early implementation of a well co-ordinated plan to curb unrecorded trading activities within the Community.

Obstacles to control

114. It is in no way suggested that the struggle against unrecorded trading activities in West Africa is by any means an easy one. Indeed, any plan to eliminate smuggling is bound to be faced with a number of serious constraints of which the most important are the followings:

- (i) Many countries have extensive, open borders with no natural barriers. These may include open stretches of water, which are easy to cross, but very difficult to police. Only very few West African countries have the means in terms of manpower and equipment, to mount effective policing of their entire borders;
- (ii) The curbing of unrecorded trade in West Africa is made even more difficult by the attitude of many of its inhabitants who, owing to poor education and insufficient civic awareness, are still unable to appreciate that there is something unpatriotic in evading tax or stealing state money in any form;
- (iii) It will be an uphill task to drive a wedge between frontier groups of inhabitants, where the settlement pattern and fusion of ethnic characteristics have long been conducive to a closely interwoven life, in defiance of state boundaries arbitrarily demarcated by the accidents of colonial history;
- (iv) Besides the many petty traders who indulge in unofficial trading, there are agents and middlemen, all of whom co-operate in a way that makes the identification of offenders difficult. The use of informants may prove double-edged, since they do not act from patriotic motives, but like mercenaries, and can therefore easily decide to aid smugglers - their whims being dictated by the size of reward promised;
- (v) In any bid to stamp out smuggling, a conflict of interests may occur. Smuggling is a short cut to wealth, and it is therefore possible for those in positions of influence, who denounce unofficial trade openly, may behind this facade of disapproval, be involved themselves, and so only play at promoting any measures designed to control it;
- (vi) The unofficial exchange of currency which facilitates unrecorded trading, has become firmly established in border regions, and would probably go underground if measures were implanted to eliminate it.

IX. MEASURES TO BE TAKEN AGAINST UNRECORDED TRADE^{1/}

115. Although non-recorded trade has its positive aspects (benefits for those who engage in it, maintenance of intra-African trade, improvements in the standard of living), on balance it constitutes, as we have seen above, a terrible burden on the economies of the countries afflicted by it. Consequently, appropriate concerted action should be undertaken to eradicate it.

116. The limited steps taken so far by governments to combat unrecorded trade and its effects are inadequate. Current administrative, customs and police institutions should be upgraded, in terms of both quantity and quality. In terms of both men and materials, it is difficult for a country like Niger to provide effective policing for 924,000 km² of land and 6,000 km of frontier. In Nigeria, to take another example, 16,000 or so customs officials distributed over 116 check-points find it difficult enough to control 3,800 km of land frontier, 800 km of coast, and 45 officially recognized external trade routes.

117. The abolition of official trade obstacles between ECOWAS countries will force member countries to strengthen control systems by adopting certain measures.

1. A Priori Measures

118. Customs and excise institutions in ECOWAS countries should join forces to study the ways and means by which regulations at Community level could be implemented. The Community measures would not merely harmonize existing customs regulations at national level, but would also include a carefully orchestrated policy for the policing of frontiers, the provision of customs patrol guards and the eradication of all activities associated with unofficial trade. Such measures would have to be preventive in kind.

2. A Postpriori Measures

119. In view of the problems encountered by customs institutions in their attempts to control non-recorded trade, it is suggested that member countries take steps enabling the pursuit, detection and punishment of non-recorded trade activities throughout the customs Union, i.e., after the goods have crossed the national frontier.

120. At national level, the co-operation of the police and the army, etc., will help to provide the customs officials with the support necessary to extend control throughout the area of the customs Union.

121. The adoption of a legal framework at Community level (i.e., a Community Code or Act) will enable each member country to penalize guilty parties by applying the punishments laid down in the Code.

1/ See Annex II.

3. Administrative Measures

122. Customs administrations in ECOWAS countries are recommended to take steps to further mutual co-operation over administrative matters.

4. Statistical Measures

123. Taxes and duties provide the motive for recording trade, and these records then form the basis for trade statistics. Generally, those compiling the records do not deem it necessary to record goods which are not subject to duties. This is a situation which threatens to aggravate the extent of non-recorded trade, when tariff and non-tariff barriers to trade are removed in the course of trade liberalization within ECOWAS.

124. Independantly of other measure taken in ECOWAS to bring statistics into proper focus, it would be an important step to introduce systems for compiling detaled statistics at the frontier.

125. These systems, which would be nothing to do with customs, should not be seen as likely to curb trade between member countries, but would be set up simply to evaluate trade potential within the Community.

5. Measures against Border Trade

126. The frontier situations of ECOWAS countries require that a number of co-operation measures be taken between customs institutions. The purpose of these measures would be to control border trade, which in fact accounts for a considerable proportion of trade.

127. It is well known that there are large frontier markets shared by two countries. These periodic markets are the forum for goods and cash movements the extent of which remains unknown. Frequently they are tolerated by the countries concerned, since the latter are in no position to control them. The setting up of joint committees, or the strenghtening of existing ones, might help to control these markets.

6. Intervenation by Customs

128. Customs institutions should have recourse to effective legal instruments for the succesful eradication of smuggling and non-recorded trade. This implies:

- (a) Harmonizing customs regulations;
- (b) Adopting a Community Customs Code;
- (c) Adopting a Community tariff system.

X. OTHER CO-OPERATION MEASURES

1299 Besides the measures listed above, the Community could undertake other, wider co-operation measures in the fields of banking, currency harmonization and export commodity pricing. The measures would have to include some satisfactory arrangement for intra-community payments as well as an agreement on the extent and methods of exchange control (pending the possible introduction of a common currency for the Community). In this connection, the newly established West African Clearing House, which already links twelve members of the Community, is a bold step in the right direction. Since monetary and financial aspects form a large topic beyond the scope of this project, it is expected that they will be fully examined in a separate study.

XI. CONCLUDING REMARKS

130. Official intra-ECOWAS trade is estimated to be around 4 per cent of the Community's total trade. This figure would undoubtedly be much higher if a substantial proportion of trade which is currently unrecorded could be included. If unrecorded trade could be recorded, there would be many benefits, not only from the revenue standpoint, but also from a mutual development perspective. It is strongly suggested that all appropriate measures be taken to this end.

131. Although the problem of unrecorded trade affects the Community as a whole, it is clear that each member country is affected according to its own peculiar circumstances. Consequently, it is only proper that each member State should review its own situation with the utmost care considering how best to assist in ensuring the control, both of clandestine trade proper and trade that goes unrecorded due to ignorance or neglect on the part of customs officers.

132. There is no doubt that the opening up of intra-community borders, and the resulting free movement of individuals, will not only prove desirable for sociological reasons but also serve to destroy many of the incentives to smuggling. In this connection, the co-operation that is currently being forged in the Mano River Union Scheme is a good example of how a positive start can be made in the direction of a joint drive against unrecorded trade practices.

133. It is suggested that the Community should give serious consideration to the setting up of machinery for the monitoring of the unrecorded trade volume and trends. The information obtained could be circulated to individual countries for the purpose of more accurate planning. Finally, it is hoped that the attached Draft Protocol on co-operation between national customs administrations on clandestine trade will receive the attention it deserves.

The first part of the document is a letter from the Secretary of the State to the Governor, dated the 10th of the month. It contains a report on the state of the treasury and the public debt, and a request for the Governor's approval of certain proposed measures. The letter is signed by the Secretary and is addressed to the Governor.

112

The second part of the document is a report from the Secretary of the State to the Governor, dated the 15th of the month. It contains a report on the state of the treasury and the public debt, and a request for the Governor's approval of certain proposed measures. The report is signed by the Secretary and is addressed to the Governor.

113

The third part of the document is a report from the Secretary of the State to the Governor, dated the 20th of the month. It contains a report on the state of the treasury and the public debt, and a request for the Governor's approval of certain proposed measures. The report is signed by the Secretary and is addressed to the Governor.

114

The fourth part of the document is a report from the Secretary of the State to the Governor, dated the 25th of the month. It contains a report on the state of the treasury and the public debt, and a request for the Governor's approval of certain proposed measures. The report is signed by the Secretary and is addressed to the Governor.

115

The fifth part of the document is a report from the Secretary of the State to the Governor, dated the 30th of the month. It contains a report on the state of the treasury and the public debt, and a request for the Governor's approval of certain proposed measures. The report is signed by the Secretary and is addressed to the Governor.

116

ANNEX 1

CURRENCY TRADE

Black Market Rates of Exchange

(July 1978)

Location	<u>Currencies traded</u>		<u>Official</u>		<u>Currencies traded</u>	
	From	To	Parity	Rate	From	To
Benin (Cotonou market)	cedi 36	CFA francs 1000	¢	F 1000	CFA francs 1000	cedi 30
	naira 5.20	CFA francs 1000	₦	F 1000	CFA francs 1000	naira 5
Togo (Lome market)	cedi 40	CFA francs 1000	¢	F 1000	CFA francs 1000	naira 35
	naira 5	CFA francs 1000	₦	F 1000	CFA francs 1000	naira 4.50
Ghana/Ivory Coast Border	cedi 40	CFA francs 1000	¢	F 1000	CFA francs 1000	cedi 30
Nigeria	naira 5.50	CFA francs 1000	₦	F 1000	CFA francs 1000	naira 5
	naira 1	US dollars 1	₦	\$ 1	US dollar 1	naira .80
Ghana (Accra)	cedi 48	CFA francs 1000	¢	F 1000	CFA francs 1000	cedi 40
Upper Volta/Ghana Border	cedi 66	CFA francs 100	¢	F 100	CFA francs 100	cedi 40
Ivory Coast (Abidjan)	CFA francs 1000	US dollars 4	\$	F 1000	US dollars 5	CFA francs 1000

Notes:

1. The various locations were visited between mid April and mid August 1978.
2. The official rates at the various times of our visit have been given correct to 1 decimal place.
3. The exchange rate a customer obtained was affected by:
 - (a) the venue of the transaction -- sometimes which side of a border the "business" took place;
 - (b) the particular currency he wished to change into another;
 - (c) the extent of the urgency of his needs;
 - (d) his ability to haggle.

STATE OF TEXAS

COMMISSIONERS OF THE GENERAL LAND OFFICE

San Antonio, Texas, this 15th day of August, 1900.

Tract	Section	Range	County	Acres	Remarks
Tract No. 1	Section 1	Range 1	County 1	100	(Part of Section 1)
Tract No. 2	Section 2	Range 2	County 2	100	
Tract No. 3	Section 3	Range 3	County 3	100	
Tract No. 4	Section 4	Range 4	County 4	100	
Tract No. 5	Section 5	Range 5	County 5	100	
Tract No. 6	Section 6	Range 6	County 6	100	
Tract No. 7	Section 7	Range 7	County 7	100	
Tract No. 8	Section 8	Range 8	County 8	100	
Tract No. 9	Section 9	Range 9	County 9	100	
Tract No. 10	Section 10	Range 10	County 10	100	
Tract No. 11	Section 11	Range 11	County 11	100	
Tract No. 12	Section 12	Range 12	County 12	100	
Tract No. 13	Section 13	Range 13	County 13	100	
Tract No. 14	Section 14	Range 14	County 14	100	
Tract No. 15	Section 15	Range 15	County 15	100	
Tract No. 16	Section 16	Range 16	County 16	100	
Tract No. 17	Section 17	Range 17	County 17	100	
Tract No. 18	Section 18	Range 18	County 18	100	
Tract No. 19	Section 19	Range 19	County 19	100	
Tract No. 20	Section 20	Range 20	County 20	100	

Witness our hands and seals at the City of San Antonio, Texas, this 15th day of August, 1900.

 Commissioner

 Commissioner

ANNEX II

**DRAFT PROTOCOL FOR MUTUAL GOVERNMENTAL ASSISTANCE IN THE PREVENTION,
DETECTION AND PUNISHMENT OF CLANDESTINE TRADE BETWEEN MEMBER
COUNTRIES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES**

THE HIGH CONTRACTING PARTIES,

Pursuant to article 100 of the Treaty of the Economic Community of West African States relative to mutual governmental assistance between member countries, are AGREED as follows:

CHAPTER I

DEFINITIONS

Article 1

For the purposes of the present protocol and its application, the term:

- a) 'Treaty', means the founding treaty of the Economic Community of West African States;
- b) 'Community', means the Economic Community of West African States;
- c) 'Council', means the Council of Ministers set up under article 6 of the Treaty of the Economic Community of West African States;
- d) 'Commission', means the Trade, Customs, Immigration, Currency and Payments Commission set up under article 9 of the Treaty of the Economic Community of West African States;
- e) 'Member State or States', means a member State or the member States of the Economic Community of West African States;
- f) 'Customs legislation', means the totality of legislative and regulative measures applied by customs administrations as regards the import, export or transit of merchandise;
- g) 'Customs infringement' means any violation or attempt to violate customs legislation;

- h) 'Customs evasion' means any customs infringement in which a person fraudulently evades, either wholly or in part, the payment of import or export duties and taxes, infringes the prohibition or restrictive measures applied under customs legislation, or obtains any benefit whatsoever by the infringement of such legislation;
- i) 'Commercial evasion', means any infringement by which, outside the provisions mentioned under d) above, any merchandise is concealed or withheld from the knowledge of the external trade authorities, whether or not liable to import or export duties and taxes.
- j) 'Smuggling', means any customs evasion in which merchandise is moved illegally by any means across a customs frontier;
- k) 'Import or export duties and taxes', means customs and any other duties, taxes and royalties or sundry charges levied on imports or exports, with the exception of royalties and charges where the total is limited by the approximate cost of the services rendered;
- l) 'Entity', means both an individual and a legal entity, unless the context provides otherwise;
- m) 'Ratification', means the formal acceptance or application of the present protocol;
- n) 'Competent administration', means any national customs administration or any other national authority designated to assist customs administration.

CHAPTER 2

FIELD OF APPLICATION OF THE PRESENT PROTOCOL

Article 2

1. The member States agree that their competent administrations shall render each other mutual assistance with a view to the prevention, detection and punishment of customs infringements, in accordance with the provisions of the present protocol.

2. The competent administration of any State may request the mutual assistance referred to in clause 1 of the present article in the course of any enquiry or judicial or administrative proceedings undertaken by that State. If the competent administration lacks jurisdiction in instituting direct proceedings, it may request mutual assistance only to the extent of the competence attributed to it with regard to these proceedings. Similarly, if proceedings are initiated in the country of the administration from whom the assistance is requested, the latter may provide the requested assistance to the extent of the competence attributed to it with regard to these proceedings.

3. The mutual assistance referred to section 1 of the present article does not cover requests to effect arrests, nor to recover duties, taxes, charges, fines or any other sum due to a member State, in so far as these matters come under the Community Customs Code.

Article 3

4. When a member State determines that the assistance requested of it would be prejudicial to its sovereignty, security or other essential interests, or would harm the legitimate commercial interests of its public or private companies, it may refuse to grant such assistance, or may grant it only on condition that certain conditions or requirements are satisfied.

Article 4

5. When the competent administration of a member State presents a request for assistance to another member State, which it would be unable to reciprocate if the other State were to submit a similar request, this fact shall be stated when the request is made. The member State to whom the request is directed shall be at liberty to decide what action should be taken with regard to the said request.

Article 5

6. The provisions of the present protocol also apply to non-recorded traffic in drugs and psychotropic substances.

CHAPTER 3

GENERAL NATURE OF ASSISTANCE

Article 6

1. The particulars, documents and other sources of information communicated or obtained under the application of the present protocol shall:

- a) Should be used only for the purpose given in the present protocol, including during judicial or administrative proceedings, and only on condition that the conditions stipulated by the competent administration are fulfilled;
- b) Benefit, in the receiving country, from the same measures protecting confidential information and professional secrets as are in force in that country for particulars, documents and other sources of information obtained within its own territory.

2. Particulars, documents and other sources of information may only be used for other purposes with the written consent of the customs administration or equivalent authority providing such information, and only on condition that the conditions stipulated by the organization concerned, as well as the provisions under section 1 (b) of the present article, are fulfilled.

Article 7

1. Communications between member States provided for under the present protocol shall take place directly between the competent administrations. The competent administrations of member States shall designate the departments or officials responsible for such communications, and inform the Executive Secretariat of the Economic Community of West African States of the names and addresses of these departments or officials. The Executive Secretariat shall notify such information to the member States.

2. The competent administration of any member State to whom a request for assistance is addressed shall take all the necessary steps to comply with the request, with due regard for the laws and regulations in force within its own territory.

3. The competent administration of a member State to whom a request is addressed will reply to such a request within the shortest possible time.

Article 8

1. Requests for assistance on the basis of the present protocol shall normally be submitted in writing, accompanied by the necessary information and any documents deemed relevant.

2. All written requests shall be submitted in a language acceptable to the member States concerned.

3. In all cases, each member State shall accept requests for assistance and accompanying documents drafted in French or in English, or accompanied by a translation into one of these languages.

4. Whenever requests for assistance are not submitted in writing, primarily on account of their urgency, the member State to whom such a request is addressed may demand written confirmation.

Article 9

In accordance with the provisions of the article hereunder, costs arising on account of experts and witnesses and resulting from the application of the present protocol are to be born by the Executive Secretariat of ECOFIAS.

CHAPTER 4

SUNDRY PROVISIONS

Article 10

The Council, Executive Secretariat and Competent Administrations shall take appropriate measures to ensure that departments responsible for the prevention, detection and punishment of infringements involving customs or trade evasion are in direct and person contact with each other in order to facilitate the implementation of the general aims of the present protocol.

Article 11

The provisions of the present protocol shall constitute no obstacle to the application of mutual administrative assistance of a more extensive nature, which certain member States agree or may agree to implement.

CHAPTER 5

TECHNICAL PROVISIONS

Article 12

1. The competent administration of any member State shall communicate of its own volition to the competent administration of any other member State, any significant information reaching it in the course of its normal activities, which leads it to suspect that a serious customs or trade infringement is or will take place on the territory of that member State. Communicable information shall primarily concern the movement of entities or of merchandize or the means of transport used.

2. If it is deemed appropriate to do so, the competent administration of a member State shall communicate of its own volition to the competent administration of any other member State, any documents, reports, records or proceedings in support of information communicated in accordance with clause 1 above, either in the form of originals or as certified copies.

3. The competent administration of any member State shall communicate of its own volition to the competent administration of any other member State directly concerned, any information likely to be useful to it relating to customs and trade infringements, and especially to new means or methods employed in the commission of such infringements.

Article 13

Assistance on Request with Regard to Determination
of Import or Export Duties and Taxes

1. At the request of a competent administration having reason to suspect that a serious customs or trade infringement has been committed within its country, the competent administration of the member State to whom such a request is submitted shall communicate any information at its disposal likely to assist in determining the exact total of import or export duties and taxes due.

2. The competent administration of a member State shall be deemed to have satisfied its obligations in this respect if, it communicates on request the following information or documents, inter alia, in its possession:

- a) As regards the customs value of merchandize: commercial invoices submitted to the customs authorities of the exporting or importing country, or copies of the said invoices whether certified or not by the customs and as required by the circumstances; documents showing current export or import prices; a copy of the declaration of value made when the merchandize was exported or imported; trade catalogues, current prices etc., whether published in the country of export or the country of import;
- b) As regards the classification of merchandize for tariff purposes: the results of any analyses carried out by laboratories to determine the classification of merchandize for tariff purposes; the tariff classification declared, whether on import or export;
- c) As regards the origin of merchandize: the declaration of origin as established in accordance with the provisions of the protocol covering ECOVIAS regulations on the origin of merchandize, when such declarations are required; the customs status of merchandize in the country of export (i.e. in customs transit, in customs depot, on temporary admission, in a free zone, in free circulation, exported draw-back etc).

Article 14

Assistance on Request with Regard to Monitoring

At the request of the competent administration of a member State, the competent administration of another member State shall submit information on the following points:

- a) The authenticity of the official documents submitted in support of a declaration of merchandize to the customs authority of the member State presenting the request;
- b) The regularity of exports, from the territory of the member State to whom the request is submitted, of merchandize imported into the territory of the member State requesting the information;

(c) The regularity of imports, into the territory of the member State to whom the request is submitted, of merchandize exported from the territory of the member State requesting the information.

Article 15

Assistance on Request as Regards Surveillance

At the request of the competent administration of any member State, the competent administration of any other member State shall exercise, to the extent of its competence and powers, special surveillance for a determined period:

- a) On the movements, particularly at territorial entry and exit points, of entities suspected of engaging, professionally or by custom, in suspicious activities on the territory of the member State requesting the information;
- b) On the movements of any merchandize indicated by the competent administration of the member State requesting information as being the object of considerable illicit traffic to or from the territory of that member State;
- c) On any locations where stores of merchandize have been built up, indicating their possible future use for supplying illicit traffic imported into the territory of the member State requesting the information;
- d) On any vehicles, ships, aircraft or other means of transport which there is reason to believe are used to commit customs or trade infringements in the territory of the member State requesting the information;

and shall communicate the results to the competent administration of the member State submitting the request.

Article 16

Enquiries and Notifications Carried Out on Request on behalf of another Member State

1. At the request of the competent administration of any member State, the competent administration of any other member State shall act in accordance with the laws and regulations in force in its own country to carry out enquiries with a view to obtaining items of

evidence with regard to customs or trade infringements which are the object of investigation on the territory of the member State submitting the request, shall record the statements of individuals suspected or wanted in connection with such infringements, as well as those of witnesses or experts, and shall communicate the results of such an enquiry, together with the relevant documents or other items of evidence, to the competent administration of the member State submitting the request.

2. On written request from the competent administration of any member State, the competent administration of any other member State shall act in accordance with the laws and regulations in force in its own country to notify any interested parties resident on its territory, or to instruct the competent authorities to notify them, of any acts or decisions on the part of the member State requesting information with regard to any matter relevant to the field of application of the present protocol.

Article 17

Statements by Representatives of Competent Administrations before Foreign Tribunals

When a simple written statement is not sufficient and the competent administration of a member State requests it, the competent administration of the other member State shall as far as possible authorize its agents to give evidence before the appropriate tribunal in session on the territory of the member State requesting information, as witnesses or experts in any matter concerning a customs or trade infringement. The request to appear before the tribunal shall specify the case in question and the capacity in which the agent or official is to give evidence. If necessary, the competent administration of the member State receiving the request to appear before the tribunal shall specify, in the authorization which it issues, the limits within which the agents or officials appearing shall maintain their statements.

Article 18

Presence of Representatives of the Competent Administration of One Member State on the Territory of another Member State

1. On written request from the competent administration of a member State enquiring into a specific trade or customs infringement, the competent administration of the other member State shall authorize, whenever it deems it appropriate to do so, any agents specially designated by the member State requesting information to

gain access to any papers, records and other documents or complementary sources of relevant information held by its offices, and to take copies of such documents or extract from them the information or items relevant to the said infringement.

2. In the application of the provisions of clause 1 above, the greatest possible assistance and collaboration shall be provided to agents of the competent administration of the member State requiring information, so as to facilitate its researches.

3. On the written request of the competent administration of a member State, the competent administration of any other member State shall authorize, whenever it deems it appropriate to do so, agents of the competent administration requesting information to be present on the territory of the member State to whom the request is submitted, in connection with enquiries into or establishment of a customs or trade infringement involving the member State requesting information.

Article 19

Participation in Foreign Enquiries

When the two member States concerned deem it appropriate to do so, representatives of the competent administration of a member State shall participate, at the request of the other member State, in enquiries carried out on the territory of the latter.

CHAPTER 6

Centralization of Information

Article 20

1. The competent administrations of member States shall communicate to the Executive Secretariat of the Community the information provided for hereunder, to the extent that such information is relevant to inter-State affairs.

2. The Executive Secretariat of the Community shall establish and keep up to date a central file of information provided by member States, and shall use the data in the file to compile summaries and studies of recent or already established trends in trade or customs evasion. The Secretariat shall carry out a periodical review in order to eliminate information which it believes to have become irrelevant or invalid.

3. The competent administrations shall, on request and on condition that the remaining provisions of the present protocol are satisfied, supply the Executive Secretariat of the Community with any additional information which may be required by it in order to compile the summaries and studies referred to in 2 of the present article.
4. The Executive Secretariat of the Community shall communicate to the departments or agents nominated by the competent administrations of member States, any specific information in the central file to the extent that they deem such communication relevant, as well as the summaries and studies referred to in clause 2 of the present article.
5. The General Secretariat of the Community shall, on request, communicate to member States any other information in its possession in respect of the present article.
6. The Executive Secretariat of the Community shall take into account any restrictions which the member State supplying the information will have applied to circulation of such information.
7. Any member State which has supplied information shall have the right to demand that such information be subsequently removed from the central file and, when appropriate, from any other file held by a member State to whom such information has been communicated, and that no further use be made of it.

Section I

Entities in relation to Non-recorded Trade in the Form of Smuggling

Article 21

1. Information conveyed under the present section is intended to provide the following particulars:
 - a) On entities convicted definitively for smuggling offenses; and
 - b) Where appropriate, on entities suspected of smuggling or caught in the act of smuggling on the territory of the member State responsible for supplying the information, even if no prosecution has yet resulted, on the

understanding that member States withholding the names and descriptions of relevant entities, on the grounds that their own legislation prevents them from releasing such details, shall in any case communicate the maximum possible number of items referred to in the present section.

In principle, only information relating to infringements punishable by a prison sentence or a fine amounting to a sum higher than the equivalent of, or liable to punishment by such a sentence or fine, shall be communicated.

Article 22

The principal items of information to be communicated are the following:

A. Individual Entities

- a) Name
- b) Given names
- c) Where appropriate, maiden name
- d) Surname or assumed name
- e) Occupation
- f) Present address
- g) Date and place of birth
- h) Nationality
- i) Country of residence
- j) Country or countries in which the entity has resided over the previous 12 months;
- k) Nature and number of means of identification, including dates and countries of issue;
- l) Description:
 1. Sex
 2. Height
 3. Weight
 4. Build
 5. Hair
 6. Eyes
 7. Complexion
 8. Distinguishing marks;
- m) Brief description of infringement (indicate, inter alia, the nature, quantity or origin of criminally handled merchandise, the manufacturer, the shipper and forwarding agent) and the circumstances in which it was discovered;
- n) Nature and extent of the penalties incurred or the sentence passed;
- o) Any other observations, including languages spoken by the entity in question and any previous convictions, if known;
- p) Member State supplying the information (including reference number).

B. Legal Entities (Companies)

- a) Name or style of company;
- b) Address;
- c) Name of principal directors or employees of the company being prosecuted and, where appropriate, descriptions as indicated in part A above, sections a) to 1);
- d) Name of associated multi-national company;
- e) Nature of activity;
- f) Nature of infringement;
- g) Description of infringement (including information as to manufacturer, shipper and forwarding agent) and the circumstances in which it was discovered;
- h) Maximum penalty;
- i) Any other observations, including any previous convictions, if known;
- j) Member State supplying information (including reference number).

Article 23

As a general rule, the Executive Secretariat of the Community shall circulate information concerning individual entities at least to the country of which the person concerned is a national, to the country in which he is legally resident and to those in which he has stayed during the previous 12 months.

Section II

Individual or legal entities with regard to non-recorded trade in the form of customs evasion other than by smuggling

Article 24

1. Information conveyed under the present section is intended to provide the following particulars:

- a) On entities convicted definitively for customs evasion offenses other than smuggling;
- b) As appropriate, on entities suspected of such offenses, even in cases where no prosecution has yet resulted, on the understanding that member States withholding the names and descriptions of relevant entities on the grounds that their own legislation prevents them from releasing such details, shall in any case communicate the maximum possible number of items referred to in the present section.

2. In principle, only information relating to infringements punishable by a prison sentence or fine amounting to a sum higher than the equivalent of, or liable to such punishment by such a sentence or fine, shall be communicated.

Article 25

The principal items of information to be communicated, whenever possible are the following:

- a) Name (or name of company) and address
- b) Names and descriptions of principal directors of the company under prosecution
- c) Nature of merchandize
- d) Country of origin
- e) Associated multi-national company
- f) Name and address of seller
- g) Name and address of shipper
- h) Name and address of other implicated entities (buyer's or seller's agents, other middlemen etc.)
- i) Port(s) or place(s) whence the merchandize was exported
- j) Brief description of the infringement and the circumstances in which it was discovered
- k) Total penalty and loss of income for the Treasury, where appropriate
- l) Any other observations, including any previous convictions, if known
- m) Member State supplying the information (including reference number).

Section III

Non-recorded Trading Methods in the Form of Smuggling

and Other Types of Evasion, Including Evasion by

Forgery, Falsification or Counterfeit

Article 26

Information conveyed under the present section is intended to provide particulars relating to non-recorded trading methods in the form of smuggling and other types of evasion, including the utilization of methods of concealment, forgery, falsification or counterfeit, in all cases of relevance at international level. Member States shall in each case indicate the utilization of each non-recorded trading method (whether smuggling or other types of evasion), as well as any new or unusual methods and any potential means of smuggling or committing other types of evasion, such that any trends developing in the field of non-recorded trade may be detected.

Article 27

The principal items of information to be communicated, whenever possible, are the following:

- a) Description of non-recorded trading methods in the form of smuggling and other types of evasion, including the use of forgery, falsification and counterfeit. Whenever possible, a description (make, model, registration number etc.) of the means of transport used shall be supplied. When appropriate, information on the license or number plate of containers or vehicles, the technical standards of which have been approved under the terms of an international convention, and also any indications concerning the fraudulent manipulation of seals, bolts on the sealing device, or other parts of the container or vehicles shall also be provided;
- b) Where appropriate, description of the place of concealment, with a photograph or sketch whenever possible;
- c) Description of the merchandise involved;
- d) Nature and description of forgeries, falsification or counterfeit; purposes for which the forged, falsified or counterfeited documents customs seals, number plates etc. have been used;
- e) Further observations, especially with regard to the circumstances in which the evasion was discovered;
- f) Member State supplying the information (including the reference number).

Section IV

Ships used for Non-recorded Trading Operations in the form of Smuggling

Article 28

Information conveyed under the present section is intended to provide particulars relating to ships of all types used for non-recorded trading operations in the form of smuggling. In principle, only information relating to matters considered relevant at inter-State level shall be communicated.

Article 29

The principal items of information to be communicated, as far as they are available and national legislation permits to be communicated, are as follows:

- a) Name and brief description of ship (tonnage, profile, etc.);
- b) Name and address of charterer or shipper;
- c) Flag;
- d) Port of registration and, if different, home port;
- e) Name and nationality of captain (and, where appropriate, principal officers of ship);
- f) Nature of infringement, with description of any merchandize seized;
- g) Description where appropriate of place of concealment (with if possible a photograph or sketch) as well as the circumstances in which it was discovered;
- h) Country of origin of the merchandize seized;
- i) First port of loading;
- j) Last port of destination;
- k) Ports of call between ports mentioned in i) and j);
- l) Any other observations (number of times the ship, shipping company, charterer or other entity using the ship under any other designation has already participated in non-recorded trading activities in the form of smuggling;
- m) Member State supplying the information (including reference number).