

Research Article**FACILITATION OF THE FREE MOVEMENT OF PERSONS AND GOODS IN THE WEST AFRICAN ECONOMIC AND MONETARY UNION AREA: THE CASE OF ABNORMAL PRACTICES ON MEMBER STATES' CORRIDORS****^{1,*} Abelim PASSOLI, ²Kossi DIZEWE, ³Assogba GUEZERE and ⁴Coffi AHOLOU**¹National Institute of Scientific Research, University of Lomé (INRS/UL), BP 2240 Lomé-Togo²Research Laboratory on Spaces, Exchanges and Human Security (LaREESH)³CREDSS Research Laboratory (Center for Research and Expertise on the Dynamics of Spaces and Societies)⁴Regional Centre of Excellence on Sustainable Cities in Africa (CERViDA-DOUNEDON)

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Abstract

The free movement of people and goods is the key to integration into the West African Economic and Monetary Union (WAEMU) area. The aim of this article is to analyse the mobility practices of people and goods on the corridors of the Member States of the Union, in relation to institutional reforms. The methodology adopted is based on the examination of the different theories that govern the analysis of integration issues, the observation of field practices and interviews with mobility actors in the WAEMU region. The results reveal real difficulties that affect the dynamics of free movement. Indeed, the union suffers from problems linked to insufficient implementation of reforms in the States. The effectiveness of freedom of movement, in that it should form the basis for the creation of the common market, is not entirely assured. Reforms are constantly undermined by illegal practices. In view of these difficulties, the Union must focus its efforts on taking strong measures to make the free movement of people and goods effective.

Keywords: Economic integration - WAEMU area - free movement - persons - goods - Abnormal practices - Member States.

INTRODUCTION

The free movement of people and goods is a fundamental aspiration of any regional integration policy. In particular, it consists of promoting "trade and peoples' integration within member states" (Koffi Nutefé Tsigbé and Koffi Bakayota Kpaye, 2017). Created on 10 January 1994 in Dakar, Senegal, two decades after the Economic and Monetary Union of West African States (ECOWAS), the West African Economic and Monetary Union (WAEMU) is the second largest sub-regional economic organization in West Africa. In accordance with the provisions of Article 4 (c) of its revised Treaty, WAEMU has set itself the essential objective of creating in West Africa "a common market based on the free movement of persons, goods, capital, services, and the right of establishment of persons with a self-employed or salaried activity, as well as on a Common External Tariff (CET) and a common commercial policy" (WAEMU Commission, 2022 p.1). The aim is to make the Union an area without frontiers within which any national of a Member State can travel to another country, without any hindrance justified by his nationality. Despite this enshrinement in the texts, the free movement of persons is struggling to be fully effective. The right of entry, hitherto considered to be the most effective of the rights that make up the free movement of persons and goods, is constantly called into question by illicit practices that can be summed up in harassment and racketeering at borders and within States (Luc Marius Ibriga and Kassem Salam Sourwema, 2014). And for the President of the Union Commission, the free movement of people and goods continues to be, to a large extent, a concern despite the efforts made, because the implementation of the texts still suffers from unjustified reluctance in the Member States.

The objective of this research is to analyze the mobility practices of people and goods on the corridors of WAEMU member states.

METHODOLOGICAL APPROACH

The methodology adopted is twofold. It is based, on the one hand, on documentary research in order to examine the different theories that govern the analysis of integration issues in Africa and specifically in the WAEMU region, and on the other hand, on an analysis of the realities on the ground through interviews with stakeholders to show the application of legal texts and the effectiveness of the Union's integration process. In both cases, in addition to the general documents on the research methodology, we will be interested in the legal documents, activity reports and figures of the WAEMU Commission, particularly the Observatory of Abnormal Practices (OAP) and the Inter-Parliamentary Committee of the Union. Indeed, theses, dissertations, journals and recent articles from the academic world, general and specific works of transport authorities, transport operators and transport trade unions are consulted on site. Other documents are directly exploited on the Internet. The survey is carried out in the form of interviews, not only with drivers and passengers, but also with checkpoint agents on the 8 corridors of the WAEMU using a maintenance grid. These interviews provided information to 5 members of the WAEMU inter-parliamentary commission and 8 trade union leaders, including 1 trade union official per corridor. In total, 3 drivers, 5 passengers and 4 checkpoint officers were interviewed per corridor. All these actors were selected on the basis of a random selection criterion. The analysis of the information collected in the field was done on the computer using Sphinx and Excel software. They have made it possible to draw up graphs and statistical tables with a view to analysing and interpreting the various

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phenomena. To make places and networks easier to read, maps are made using the Arc GIS mapping software.

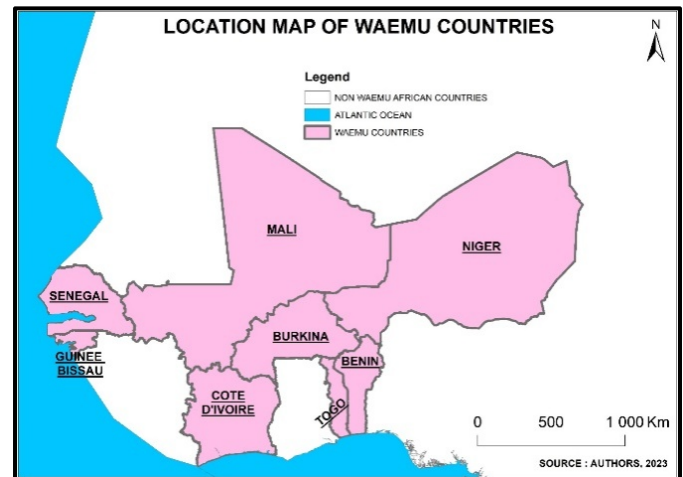
RESULTS AND DISCUSSION

Basis for the free movement of persons and goods in the WAEMU area

A particular historical and geographical context: Nation-state borders are the results of the process of territorialization from which the different spaces of power are defined. They are strongly marked by the ability to control territory and people and by the desire to establish a hold. However, this is not always accepted by everyone, hence the importance of disputes and the "hot" nature of border areas, especially in former colonized countries (Igué John O., 2010). According to Zinzou-Klassou Kossiwa (2001), the delineation of borders is imposed and made according to logics that have come to disrupt the social organization and spatial distribution of indigenous societies that prevailed before colonization. This barrier has come to divide homogeneous or united entities. This deplorable situation explains why populations, now belonging to two neighbouring countries, often try to break down this obstacle by continuing to live in close symbiosis through their cultures, languages, social and religious values. Hence the establishment of a form of localized integration in the areas bordering most African countries through a life of very active relations with border populations. This manifests itself in daily, seasonal and permanent migrations, and trans-state trade that ends up strongly structuring the space (Zinzou-Klassou Kossiwa, 2001).

Therefore, the presence of this demarcation line has a positive influence on the organization of contiguous spaces, illustrated by the development of a border dynamic. Thus, "national peripheries" are emerging, which are distinguished by their mechanisms, their modes of operation and their functionalities. They are made up of a series of small agglomerations, border towns, sometimes twins, spaces of exchange and markets that are born on the basis of a very strong solidarity between populations (Igué, 1989). These border areas are in fact places where local processes of economic and social integration emerge "from below" (Diallo, 2000). These are increasingly manifested by the phenomena of migratory movements, capital, goods and information that take place there, as well as the spontaneous or non-spontaneous commercial movements of indigenous populations. This effervescence of border areas can be interpreted as an effort to articulate territories on which African states can build new development policies. In West Africa, this desire was reflected in the creation of the Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (WAEMU) by leaders to remove barriers created by colonization. Indeed, in the aftermath of their independence, precisely in 1962, six countries (Côte d'Ivoire, Senegal, Niger, Benin, Burkina Faso and Mauritania) to which Togo was added a year later, created the West African Monetary Union (WAMU), thus demonstrating their desire for monetary cooperation both among themselves, within a Union, and with France within the Franc Zone. Subsequently, Mauritania withdrew from the Union in 1973 while Mali joined in 1984 (Paule Mireille Boka, 2018). With the economic crisis of the 1990s, WAMU member countries signed the treaty establishing the West African Economic and Monetary Union (WAEMU) in Dakar on 10 January 1994 with a view to deepening their economic

integration. The strength of this Union lies in the use of the CFA franc as a common currency (WAEMU Court of Justice, May 2010). Four years after this treaty, in 1997 to be precise, Guinea-Bissau joined the Union, bringing the number of member countries to 8. These member states, which also belong to ECOWAS, use the French language. The Union is thus composed of five countries with a sea front and three (3) landlocked countries. The map below shows the 8 member countries of the union.



Map 1. WAEMU member countries

With an area of 3,505,909 km², the WAEMU zone has an estimated population of about 120 million inhabitants (Augustin Foster Comlan Chabossou, 2013). Historically, the WAEMU region belonging to ECOWAS has always been an area of extreme population mobility.

Legal texts of the principle of free movement that comply with ECOWAS provisions: The free movement of persons and goods is governed by the founding texts of the WAEMU Treaty. In reality, the Union has not adopted any specific provisions, for the simple reason that all its member States are members of ECOWAS and apply, de facto, the provisions of the latter relating to it, in accordance with Article 100 of the amended Treaty, which stipulates that "in order to achieve the objectives defined in Article 76 of this Treaty, the Union shall take into account the achievements of the African subregional organizations in which its member States participate" (WAEMU Commission, 2022). The principle of free movement of persons is formally laid down in Articles 91, 92 and 93 of the WAEMU Treaty. Article 91 of the Treaty mentions "the abolition between nationals of Member States of all discrimination on grounds of nationality as regards the search for or pursuit of employment, with the exception of employment in the public service (...), the right to move and reside within the territory of all the Member States (...), the right to continue to re-establish the right to work in the territory of all the Member States." Paragraph 01 of Article 92 of the Treaty adds that "nationals of a Member State shall enjoy the right of establishment within the Union". According to Article 93 of the Treaty, "nationals of each Member State may provide services in another Member State under the same conditions as those which that State imposes on its own nationals". In addition to these three articles (91, 92 and 93) of the Treaty, the free movement of persons within the WAEMU area is governed by the provisions of ECOWAS, in particular Additional Act A/SA.1/07/14 and Additional Protocol A/P1/5/79 amending article 1, paragraph 8, article 3,

paragraphs 1 and 2, and article 5, paragraphs 1 and 2, of Protocol A/P1/5/79 on the free movement of persons the right of residence and establishment, relating to travel documents.

Freedom of movement confers rights on the Union nationals, which in practice implies the right to move and reside in the Member States without prior authorisation. On the one hand, with this right, no entry or exit visa can be requested from a Community national on the territory of the Union. On the other hand, this right of residence and movement is not linked to the exercise of an economic activity.

The free movement of goods within the Union also finds its foundations in the treaty of the union. In order to eliminate barriers to the free movement of goods in the WAEMU area, the Council of Ministers adopted on 16 December 2005 Directive No. 08/2005/CM/UEMOA on the reduction of inter-State road checkpoints in the Union and Decision No. 15/2005/CM/UEMOA on practical arrangements for the implementation of the regional control plan on inter-State roads of the Union.

The Customs Union was created in 1997 through the adoption of Regulation No. 02/97/CM/UEMOA of 28 November 1997 adopting the Common External Tariff (CET) of the WAEMU. This reform was completed by the adoption of Additional Protocol No. III/2001 of 19 December 2001. This protocol establishes and enacts the rules of origin for WAEMU products. This Customs Union became effective on 1 January 2000, with the entry into force of the CET. The latter regulates the import of goods into the WAEMU region. The Union also introduced the Customs Valuation of Goods in 1999 and adopted a Community Customs Code in 2001.

Article 76(a) of the Revised Treaty on European Union provides that the Union shall pursue the progressive achievement of "the elimination, on trade between Member States, of customs duties, quantitative restrictions on entry and exit, charges having equivalent effect and of all other measures having equivalent effect which may affect such transactions, subject to compliance with the Union's rules of origin to be specified by means of an Additional Protocol". Article 77 stipulates that "with a view to attaining the objective defined in this Article, Member States shall, from the entry into force of this Treaty, refrain from:

- to introduce among themselves all new customs duties on imports and exports as well as all charges having equivalent effect and to increase those which they apply in their mutual trade relations;
- to introduce new quantitative restrictions on exports or imports or measures having equivalent effect between them, and to make quotas, standards and all other provisions having equivalent effect more restrictive. In accordance with the provisions of Article XXIV (5) (a) of the General Agreement on Tariffs and Trade (GATT), the Union shall ensure that the overall impact of customs duties and other trade regulations vis-à-vis third countries is not more restrictive than that of the provisions in force prior to the establishment of the Union."

All of these texts, adopted after the close involvement of professional orders and technical ministries in the various fields, should, ultimately, constitute the Code of Freedom of Movement and Right of Establishment within the WAEMU (WAEMU Commission, 2022).

Organization and operation of transport on the corridors of the WAEMU area

Organisation of transport corridors and checkpoints: The WAEMU area is structured around ten main axes. These are transport corridors or "multimodal structures composed of road and rail axes" providing an economically efficient connection between centres of economic activity" in several countries (Ronan Porhel and Alain Léon, 2014). The Bamako – Dakar corridor passing through Diboly is the longest axis. It covers Mali and Senegal over a distance of 1,382 kilometres. The Lomé – Ouagadougou axis, with a length of 920 kilometres, is the shortest corridor. The table below shows the corridors and the different states they serve.

CORRIDORS AND CHECKPOINTS			
CORRIDOR	STATES CONCERNED	LENGTHS (km)	CHECKPOINTS
1. Abidjan – Bamako	Côte d'Ivoire, Mali	1 174	19
2. Abidjan – Ouagadougou	Burkina Faso, Côte d'Ivoire	1 263	25
3. Bamako – Dakar via Diboly	Mali, Senegal	1 382	22
4. Bamako – Dakar via Moussala	Mali, Senegal	1 225	21
5. Bamako – Ouaga via Heremankono	Burkina Faso, Mali	934	18
6. Bamako – Ouaga via Kouy	Burkina Faso, Mali	1 035	18
7. Cotonou – Niamey	Benin, Niger	950	1
8. Tema – Ouagadougou	Eurkina Faso, Ghana	1 057	7
9. Lomé – Ouagadougou	Burkina Faso, Togo	920	19
10. Dakar – Bissau	Bissau Guinea, Senegal	1 052	15
GRAND TOTAL		10 992	165

Source: WAEMU Commission (2020)

Each corridor has checkpoints at the borders and within the Union Member States. Checkpoints are the stops where drivers have to be checked by law enforcement officers. The largest number of checkpoints is observed on the Abidjan-Ouagadougou corridor. Apart from the juxtaposed checkpoints, they represent an average of 25 checkpoints per trip according to statistics of the OAP reports. The map below shows the different corridors and checkpoints.



Source: Carried out by the author (2023) using data collected on GADM data

On-the-ground practices that contrast with Member States' regulatory provisions on corridors: OAP¹ produces and periodically disseminates in quarterly and annual reports statistics on these increasingly anomalous and worrying practices on the Union's corridors. The most recent reports produced by this observatory reveal that the number of checkpoints remains high, which leads to wasted time for

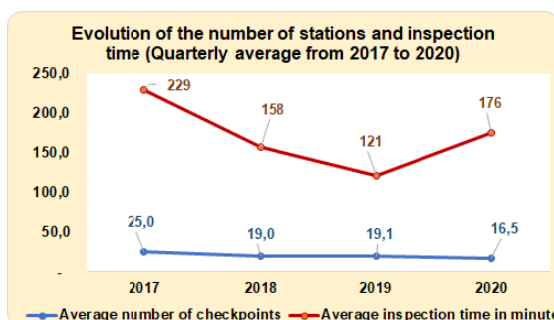
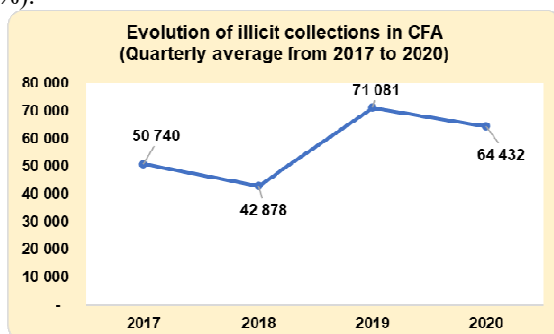
¹ Observatory of Abnormal Practices (OAP), set up by the WAEMU Commission with the support of Technical and Financial Partners (TFPs) since 2005 to monitor the effective removal of these obstacles along the Union's corridors.

administrative formalities. According to OAP's Q1 2020 report, the average time lost on WAEMU roads is estimated at 175 minutes per trip on a corridor. The time lost is greater on the Lomé-Ouagadougou corridor. It represents 473.9 minutes on this corridor, or nearly 8 hours. On the other hand, this time lost is lower on the Cotonou-Niamey corridor and represents 4 minutes on average.

STATISTICS ON ABNORMAL PRACTICES ON THE CORRIDORS OF THE WAEMU ZONE							
Corridors/States	Lengths (km)	Number of Checkpoints		Inspection time in minute		Illicit collections in CFA	
		total	At 100 m	total	At 100 m	total	At 100 m
Abidjan - Bamako (Côte d'Ivoire and Mali)	1 174	19	2	86	7	38 067	3 294
Abidjan - Ouagadougou (Burkina Faso and Côte d'Ivoire)	1 263	25	2	198	16	29 827	2 362
Bamako - Dakar via Diboly (Mali and Senegal)	1 382	22	2	269	20	136 985	9 912
Bamako - Dakar via Moussala (Mali and Senegal)	1 225	21	2	228	19	178 900	14 604
Bamako - Ouaga via Heremankono (Burkina Faso and Mali)	934	18	2	31	3	25 432	2 723
Bamako - Ouaga via Koury (Burkina Faso and Mali)	1 035	18	2	30	3	30 475	2 944
Cotonou - Niamey (Benin et Niger)	990	1	0	5	1	1 664	175
Lomé - Ouagadougou (Burkina Faso and Togo)	920	7	1	474	52	3 520	383
Bissau - Dakar (Bissau Guinea and Senegal)	1 052	19	2	261	25	134 421	12 778
Average corridor	1 114	16,5	1,4	175,6	16,0	64 432	5 464

Source: Processing of data from the OAP quarterly report (Q1 2020)

Even if some sections of the state have fewer controls, their levels remain worrying. With the exception of Benin and Niger that show satisfactory results. The two states have exceeded the Community standard of three checkpoints for a corridor linking two countries of the Union: one at the start, another at the borders and the last at the point of effective formalities. This situation justifies their control time and illicit collections, which are quite low or even negligible. In other States of the Union, the non-application of certain Community texts, in particular Directive 008/2005/CM/UEMOA on the reduction of checkpoints on inter-state roads, leads to loss of time during checks. The statistics disseminated in the last four quarterly reports covering the years 2017 to 2020 show that the number of checkpoints decreased slightly from 25 in 2017 to 19 in 2018, then to 16.5 on average in 2020, a decrease of 34%. Also, the test time decreased by an average of 100 minutes from 2017 to 2019 before experiencing a worrying inflection in the first quarter of 2020, i.e. an increase of 55 minutes compared to 2019. These slight decreases can be explained by the slow transposition and application of certain Community texts. As for illicit perceptions, the trends are even more worrying with statistics that have almost doubled (42,878 FCFA in 2018 compared to 71,082 FCFA in 2019, an increase of 65%).



Source: Processing of data from quarterly takeover bid reports (2017 to 2020)

The free movement of people and goods is not respected in the WAEMU region. Despite the regulatory measures aimed at streamlining control operations and ensuring the smooth flow of traffic on the corridors through a limited number of checkpoints, administrative formalities are still required for the nationals of the Union on the corridors and when crossing borders. All these "administrative hassles are a reminder of the difficulties encountered by transporters on the one hand and traders on the other in transporting their goods as well as in their own movements" (Tchoou Adong Noyoulewa, 2009). They are a consequence of the non-application of the texts on the facilitation of regional transport. Indeed, transporters spend enough time at checkpoints both on the roads and at the borders. The reasons behind these weak performance indicators are explained by the insufficient implementation of reforms on the corridors of the Member States of the Union. Difficulties related to the application of Regulation 14 persist. According to the Laboratoire Citoyennetés (2014), one of the explanatory factors for obstacles to free movement is that "most of the time, citizens of the Community area do not know their rights and duties in terms of freedom of movement". According to N'Guessan N'Guessan (2003), "the levies, most of which are illicit, are planned and programmed in agreement with the State, the administrations, the freight and transport management and coordination bodies, and the operators, under the impotent gaze of the development institutions in charge of them". Thus, the lack of real political will on the part of WAEMU States to ensure the application of the regional conventions they have freely ratified is at the root of the amplification and persistence of the scourge of road harassment (Vincent Zoma, 2019).

The free movement of people and goods in the WAEMU area is also justified by the deterioration of certain sections of community corridors. Infrastructure mainly influences higher commercial speeds with greater vehicle turnover and reductions in maintenance expenses. However, this only applies when several other assumptions are also true, such as if the driving time along the corridors represents only a portion of the total time spent on that corridor. Data collected in 2012 show that between Tema and Ouagadougou, it takes an average of ten days to complete a 1,000 km journey (SSATP, 2018). But greater speed would not be decisive insofar as other activities, such as the need for currency exchange, are taken into account. In addition, the condition of the vehicles and the problem of overloading are much more decisive handicaps for commercial speed than the state of the infrastructure. Nevertheless, there are cases where improving infrastructure can significantly reduce travel time, for example, in areas where unpaved roads become impassable during the rainy season. In addition to the state of the infrastructure, there is also the absence of bypasses of cities or towns. The Inter-Parliamentary Committee of the Union (2022) mentions other difficulties which can be summed up in the existence of tariff barriers hindering the fluidity of trade within the Union, the absence of a complaint body to manage road hassles, the dysfunction of the national corridor management committees and the lack of awareness on the issues of free movement in the Member States as well as systems for the coordinated management of the borders of the Community area. Insecurity and terrorism also hinder the passage of trucks on certain corridors such as Ouaga-Fada-Kantchari-Niamey and Ouaga-Koury-Bamako. In addition to these problems, there are difficulties with goods in transit in Benin, notwithstanding the fluidity observed on the corridor. This is the levying of a series

of additional taxes to the CET not authorised within the framework of the Customs Union, including the corridor security fee, VAT on goods in transit, etc. Trade facilitation also plays a key role. According to drivers, the low turnover of vehicles on the corridors is a determining factor that greatly handicaps their movement. This situation is the result of a combination of factors such as long periods of downtime at ports, the difficulty of finding goods for the return journey, the regulation of quotas and vehicle queues or cumbersome international trade and transit procedures in landlocked as well as coastal countries (Nathan Associates, 2012). The facilitation of free movement is also hampered by the protectionist measures taken by States that are signatories to the various protocols on the free movement of goods and persons. This protectionism is reflected in a double standard between the desire to build regional integration and the need for national sovereignty. On this aspect, there is a great deal of contradiction and hypocrisy on the part of most of those responsible for implementing the measures agreed upon. In addition to all these reasons, there is the negative role of law enforcement agencies in the management of border control. Indeed, they constitute major obstacles to the correct application of the protocols on the free movement of persons and goods because of the racketing systems they put in place. Even if migrants are in compliance with the law, they are subject to unequal taxes at the borders. As a result, many no longer feel the need to be in order to cross borders since they have to bribe the police every time. Everyone is aware of this practice, but no one protests.

Recommendations

At the present stage of the construction of the regional market, the Union must concentrate its efforts on taking strong measures to make the free movement of persons, services and freedom of establishment effective in the Union. To achieve this goal, the following solutions are needed:

- The organisation of workshops for the dissemination of OAP reports by the Member States of the Union in order to draw the attention of public opinion and politicians to the impacts of road harassment on economic activities. They must also organize awareness-raising campaigns among stakeholders in the transport chain on the need to eliminate abnormal practices and adopt a mechanism for repression and sanctions on proven cases of abnormal practices.
- The development of a vast capacity-building programme for actors present at the land borders of the Union. More generally, the same programme will be extended to all actors involved in free movement and the right of establishment.
- Raising awareness among the people of the Union of their rights and duties as Community nationals. This awareness-raising campaign should place particular emphasis on national languages. For this purpose, it should be noted that a documentary film is being made on the subject.
- The organisation of unannounced visits to the borders and along the corridors and advocacy with the high authorities of the Union to this effect which make it possible both to raise awareness and to note abnormal practices on the corridors of the Union. The first edition concerned the Dakar-Bamako corridor via Moussala and recommendations were transmitted to the two Member States at the end of these visits. In order to have a greater positive impact on freedom of movement, it will be

considered to carry out these visits with the WAEMU Inter-Parliamentary Committee (IPC).

- The harmonization of national legislation on services, which will promote their mobility within the WAEMU region. This action could be preceded by the adoption of a Community text on the liberalisation of services in the Union, following the example of the Bolkestein Directive in Europe.
- The establishment of a warning mechanism for obstacles to free movement and the right of establishment so that all related distortions are reported and dealt with expeditiously.
- The organization of training seminars for officers in charge of control and advocacy for the registration of courses on community texts on roadside controls and the free movement of persons and goods in the initial training curriculum for agents in charge of controls.
- Referral to the WAEMU Court of Justice for failure by Member States to fulfil obligations pursuant to Article 5 of Additional Protocol No. 1 of 1996 on Supervisory Bodies.

Conclusion

The free movement of persons and goods is a fundamental and priority aspect of regional integration in the WAEMU region, because there is no integration if citizens cannot move freely, if goods from one country cannot enter another State without hindrance, or when a national of a third country cannot export his expertise to another State and settle there.

The analysis of practices on the ground reveals an insufficient application of legal texts, which poses a serious problem at the level of the Member States. The performance of the Union's inter-state road corridors remains heavily affected by abnormal practices, with the exception of the Cotonou-Niamey corridor, which is the least critical. The lack of real political will on the part of the WAEMU States to ensure the implementation of the regional conventions they have freely ratified is at the root of the amplification and persistence of the scourge of road harassment. According to Hamidou Salifou Kane, "the effectiveness of the free movement of persons and goods, in that it should constitute the basis for the creation of the common market, is not entirely assured". The regulatory measures aimed at streamlining control operations and ensuring the fluidity of traffic on the corridors through a limited number of checkpoints are not respected.

In view of the harmful consequences of these abnormal practices on the competitiveness of the economies of the WAEMU countries, it is urgent to take strong measures to curb this phenomenon. Any measures or recommendations will only be possible through a real determination on the part of the political authorities of the Member States of the Union. This political will would put an end to road hassles and stimulate other measures that are no less essential. One of the important measures is to reactivate the functioning of the National Corridor Management Committees while revising their missions. Also, training sessions coupled with awareness-raising on the adoption of civic behaviour on the corridors and compliance with regulations are to be initiated on a regular basis by the groups and professional associations of transporters, for the benefit of their members by encouraging them to professionalize their activities.

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