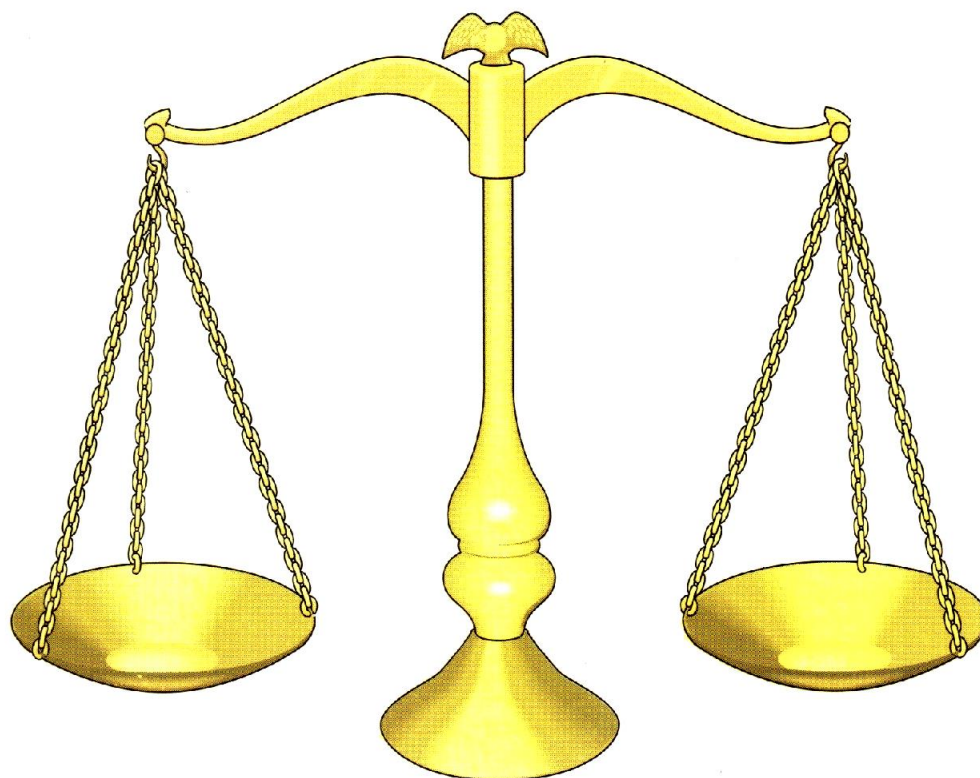




# **ECOWAS COMMUNITY COURT OF JUSTICE**



*2002 Annual Report*



## Introduction

1. It is a great honour and special privilege for me to present my first Annual Report on the activities of the Community Court of Justice, of the Community. Using this medium of communication, it is necessary on behalf of the Court to express our humble gratitude to the Authority of the Heads of State and Government of the Community under the distinguished chairmanship of His Excellency, Maître Abdoulaye WADE, President of the Republic of Senegal, for giving my humble self and my colleagues, the Justices, the opportunities to serve the Community.
2. The settling down in Nigeria, would not have been possible without the active participation of His Excellency, Chief Olusegun Obasanjo, the President of the Federal Republic of Nigeria, and also the Nigerian Government for expending so much resources to ensure that the Court takes off in earnest.
3. May I further use this opportunity to thank my fellow Justices of the Community Court of Justice, Justice Tall EL Mansour (Vice - President) Senegal, Justice Toe Barthelemy (Burkina Faso), Justice Anthony A. Benin (Ghana), Justice Aminata Malle (Mali), Justice Awa Daboya Nana (Togo), Justice Dirarou Sidibe (Niger) for the confidence reposed in me by electing me as the first President of the Court.
4. Our special gratitude goes to God Almighty, the giver of life and everything for the appointments and sustaining us, day by day, and enabled us to perform the duties we are enjoined to carry out for the Community.
5. After the preamble set above, it is necessary to state the format on which the report stands. This report outlines the history and activities of the Court, explains its functions, itemizes the progress made, enumerates its visions, as well as identifies the challenges ahead. These areas are taken seriatim with suitable modifications and expatiation

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## Chapter One

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### Establishment of the Court

5. By virtue of Articles 6 and 15 of the Revised Treaty, the Community Court of Justice was established as the fifth Institution of the ECOWAS Community, as the "Principal legal organ of the Community" and is expected "to execute its functions in accordance with the provisions of this Protocol".

#### **ITS FUNCTIONS AND COMPETENCE.**

6. The functions and competence of the Court are provided for under Article 9 of the Protocol. It may be necessary to quote the provision for clarity thus:
- (1) The Court shall ensure the observance of law and the principles of equity in the interpretation and application of the provisions of the Treaty.
  - (2) The Court shall also be competent to deal with disputes referred to it, in accordance with the provisions of Article 76(2) of the Treaty, by Member States or the Authority, when such disputes arise between the Member States or the Authority, when such disputes arise between the Member States or between one or more Member States and the Institutions of the Community on the interpretation or application of the provisions of the Treaty.
  - (3) A Member State may, on behalf of its nationals institute proceedings against another Member State or Institution of the Community, relating to the interpretation and application of the provisions of the Treaty, after attempts to settle the dispute amicably have failed.
  - (4) The Court shall have any powers conferred upon it, specifically by the provisions of this Protocol."
7. Almost as difficult to define as any legal question is the scope of the independence



shall carry out its functions "independently of Member States and the institutions of the Community". The phrase relates to the performance of its adjudicating duties and the administration of the Court.

For efficacy, Article 15(4) of the protocol and Article 76(2) of the Revised Treaty provides that the Judgments of the Court "shall be binding on Member States, the Institutions of the Community, individuals and corporate bodies "and "Failing this, either party or any other Member States or Authority may refer the matter to the Court of the Community whose decision shall be final and shall not be subject to appeal" respectively. In the final analysis, in relation to the above provisions, the Court of Justice of the Community is the supreme adjudicating Organ of the Community regarding the interpretation and application of treaties of the Community.

#### **THE JURISDICTION OF THE COURT**

8. The Court shall treat disputes brought before it by Member States or the Authority of the Heads of States and Government. In the course of such adjudication, the Court shall adhere to the principles of Law and Equity in the interpretation and application of the provisions of the Revised Treaty and all Protocols there from. All judgments of the Court shall be binding on the Member States, Institutions of the Community and individuals or corporate bodies. Only a Member State can, on behalf of its nationals, institute proceedings against another Member State or Institution of the Community. However, the Authority, Council, Member States, Executive Secretariat and any other Institution of the Community may seek advisory opinion from the Court.

***Consequently, the Jurisdiction of the Court includes:***

- i) Adjudicating on the interpretation or application of the Treaty which could not be settled amicably for example when a Member State or Institution of the Community fails to honour any of its obligations or has acted beyond the limit of its authority or has abused its powers under the Treaty; and



The authority or Member States may refer matters to the Court and the decision of the Court is final. Articles 76 (1) & (2) Revised Treaty and 9 of the Protocol refer.

## **COMPOSITION AND STRUCTURE OF THE COMMUNITY COURT OF JUSTICE**

9. The Community Court of Justice consists of seven (7) Members who have been appointed from Member States of the Economic Community of West African States - ECOWAS, pursuant to Article 3 of the Protocol.

They were sworn in as Justices of the Court on 30<sup>th</sup> January 2001, at Bamako - MALI, before His Excellency, Alpha Oumar Konare, the President of Mali and Chairman of the Authority of Heads of State and Government of ECOWAS (as he then was).

10. After the Inaugural Meeting of Members and consultations with the Chairman of the Authority, Members elected the President and Vice- President of the Court in accordance with the provisions of the Protocol.

The election saw the emergence of the present composition of the Community Court of Justice.

### **THE COMMUNITY COURT OF JUSTICE**

11. The composition of the Community court of Justice consists of:

Hon. Justice Hansine N. DONLI	- President
Hon. Justice EL- Mansour TALL	- Vice-President
Hon. Justice Anthony A. BENIN	- Member
Hon. Justice Awa Daboya NANA	- Member
Hon. Justice Barthelemy TOE	- Member
Hon. Justice Dirarou S. SIDIBE	- Member
Hon. Justice Aminata MALLE	- Member

12. The term of office for four (4) of the Judges shall be five Years, while three (3) Judges shall have a three-year term pursuant to Article 4 of the Protocol. However, the President and the Vice-President shall serve in their capacities for three years and the tenure of their office commenced from the date they were sworn - in. For proper appreciation of their terms of their office, it is pertinent to show precisely



### **13. JUDGES ON FIVE- YEAR TERM**

<b>Names of Justices</b>	<b>Designation</b>
1- Hon. Justice H.N. DONLI	- President
2- Hon. Justice Awa Daboya NANA	- Member
3- Hon. Justice Anthony A. BENIN	- Member
4- Hon. Justice Dirarou S. SIDIBE	- Member

### **14. JUDGES ON THREE- YEAR TERM**

<b>Names of Justices</b>	<b>Designation</b>
1- Hon. Justice EL-Mansour TALL	- Vice-President
2- Hon. Justice Barthelemy TOE	- Member
3- Hon. Justice Aminata MALLE	- Member

### **15. JUDGES AS STATUTORY APPOINTEES**

The Authority of the Heads of State and Government of the Community, at its Summit from 21<sup>st</sup> to 22<sup>nd</sup> December 2001, Dakar - Senegal, took a decision concerning the Appointment of Judges of the Community Court of Justice in respect of their status within the Community. Their positions being unclear hither to the period of the Summit, gave the Authority the opportunity to put on record what it should be, in order that same may be in accord with what obtains all over the world. Hence, the decision, which saw the emergence of the fact that Judges are Statutory appointees.

### **16. STAFF RECRUITMENT**

In order to enhance its speedy take - off, the Court embarked on the recruitment of essential members of Staff on temporary basis. Accordingly, there is about sixty-one essential members of Staff including security guards and messengers specified herebelow:

OFFICE OF THE PRESIDENT



5 BILINGUAL SECRETARIES 2 G5

6 ASSISTANT COMPUTER PROGRAMMER 1 G1

7 DRIVER 1 M4

8 MESSENGERS 2 M2

9 COOK 1 M2

10 STEWARD 1 M1

**TOTAL 12**

### **OFFICE OF THE VICE-PRESIDENT**

	<b>DESIGNATION</b>	<b>NUMBER</b>	<b>GRADE</b>
1	VICE-PRESIDENT	1	Statutory
2	RESEARCH ASSISTANT	1	P4
3	BILINGUAL SECRETARY	1	G5
4	DRIVER	1	M4
	<b>TOTAL</b>	<b>4</b>	

### **OFFICE OF THE JUDGES**

	<b>DESIGNATION</b>	<b>NUMBER</b>	<b>GRADE</b>
1	JUDGES	5	Statutory
2	DRIVERS	5	M4
3	COOKS	5	M2
4	STEWARDS	5	M1
	<b>TOTAL</b>	<b>20</b>	

### **ADMINISTRATION AND FINANCE**

	<b>DESIGNATION</b>	<b>NUMBER</b>	<b>GRADE</b>
1	COURT REGISTRAR	1	P5
2	TRANSLATORS	2	P2/P1
3	INTERPRETER	1	P2
4	ACCOUNT CLERKS	2	G5
5	BILINGUAL SECRETARY	1	G5
6	RECORDER	1	G3
7	ADMINISTRATIVE ASSISTANTS	2	G3/G2
8	PROTOCOL ASSISTANTS	2	G2



## **POLICE OFFICERS FROM THE NIGERIA POLICE FORCE**

<b>DESIGNATION</b>	<b>NUMBER</b>	<b>GRADE</b>
1 Orderlies to the President and Members of the Court.	7	Corporal
2 Security	5	Sergeants/ Constables
<b>TOTAL</b>	<b>12</b>	

All arrangements are completed with letters sent to Member States to advertise the various positions in the Court for permanent appointments. These appointments would follow the criteria laid down by the Staff Regulations, ECOWAS.

## **THE SEAT OF THE COURT**

17. The Community Court of Justice was established in 1991. However the pioneer Members were sworn in January 2001 with the temporary Seat of the Court at the old National Assembly building, Tafawa Balewa Square, Lagos – Nigeria. The need to have a permanent Court became pertinent in order for the Court to settle down to meet the demands of the duties it was set up. That need for a proper location, brought about the decision taken in respect of the Seat of the Court.
18. Sequel to the Decision of the 25<sup>th</sup> Session of Authority of Heads of State and Government of the Community, and pursuance of Article 1 of the said Decision, the Authority directed that "The Seat of the Community Court of Justice shall be located at Abuja, the Federal Capital Territory of the Federal Republic of Nigeria." The Court moved immediately to Abuja, in January 2002. The Director of Administration, Executive Secretariat graciously granted the Court an office at the Executive Secretariat an office for that purpose. The President who is based in Nigeria continued interacting with the Federal Government of Nigeria until the time the office property was secured for the Court.
19. On Monday 15<sup>th</sup> July 2002, the Court of Justice moved to its permanent Seat located at Plot NO 1137, Dar es Salaam Crescent, off Aminu Kano Crescent, Wuse II - Abuja Nigeria
20. The Complex comprises of a magnificent two-storey edifice, with a detached Courtroom temporarily being used as Chambers for the President, the Vice-President and Members.



***The Complex consists of several facilities such as:***

- Judges chambers
- Offices of members of staff
- Courtroom
- A generator room
- Fire extinguishers and emergency lights and
- Parking lot etc

21. At this juncture, the Court expresses its gratitude to its hosts, the Government and People of Nigeria, and the Honourable Minister of Cooperation and Integration in Africa, Dr Abimbola OGUNKELU and his and the Director-General, Ambassador Brownson Dede, whose unwavering support and commitment facilitated the acquisition of the magnificent edifice housing the Permanent Seat of the Court.





FRONT VIEW OF THE SEAT OF THE COURT





REAR VIEW OF THE SEAT OF THE COURT



## Chapter Two

### Activities of the Court

#### 22. A. BUDGET FOR YEAR 2002

The first draft budget of the Court was prepared and presented to the Administration and Finance Commission (AFC) for its consideration in November/ December 2001. The main thrust of the exercise is to ensure that the Court engages the necessary manpower and material for a successful take-off and the provision of budgetary resources to support the activities of the Court.

22. In addition, the issue of the status of the Judges was raised for a precise decision on the status of the Members of the Court. The Commission recommended that Judges of the Court should be Statutory Appointees and aligned their salary scales with those of the Heads of specialized Institutions, without prejudice to the benefits attached to the specific office of the Judges.

23. The Council of Ministers subsequently approved the recommendation of the Administration and Finance Commission (AFC) with regard to the budget of the Community Court of Justice as submitted and recommended the issue on the status of the Judges for the approval of the Authority.

#### 24. RULES OF PROCEDURE

Deliberations on the Draft Rules of Procedure of the Court of Justice were concluded at the meeting of the Judges during the second seminar/meeting held in Lagos. The President of the Court presented the Rules in accordance with Article 32 of the Protocol to the ECOWAS Council of Ministers for approval during their 48<sup>th</sup> session held from 15<sup>th</sup> and 17<sup>th</sup> of December 2001, in Dakar, Senegal.

25. The main characteristics of the Rules of Procedure, which were derived from the Rules of Procedure of the International Court of Justice and the Court of Justice of the European Communities with modifications, were highlighted to the Honourable Ministers.

26. After deliberations, Council decided to refer the document to the relevant Technical Commission before a final decision could be taken on it.





VISIT TO MEMBER RESIDENTIAL QUARTERS



## **ACQUISITION OF VEHICLES**

32. At the inception, logistics and communication problems were without doubts the major headaches. Most often the President was compelled to use business centres to communicate with Members of the Court who reside outside Nigeria. To worsen the situation, the Community Court of Justice had no vehicle at its disposal and was obliged to use public transportation for its activities. Consequently movements as well as communication were very difficult.
33. Happily, His Excellency, Chief Olusegun OBASANJO GCFR, presented a brand New Peugeot 406 to the Court and by courtesy of the ECOWAS Executive Secretary, Dr. Mohammed Ibn Chambas, an additional 406 prestige Peugeot and a 14 - Seater Toyota Hiace bus were also presented to the Court.
34. Recently, the Court acquired seven brand new cars for Members of the Court of Justice as follows:
- Two 607 Peugeot cars for the President and Vice President
  - Five 406 Peugeot cars for the Judges.

All in all, the Court has a total of ten vehicles in our fleet.

## **PURCHASE OF OFFICIAL ROBES.**

35. The Community Court of Justice in its Executive meeting of Members of the Court held from the 16<sup>th</sup> -17<sup>th</sup> August 2002, in Abuja, approved the purchase of official Robes for the President, Members and the Chief Registrar of the Court. Contacts have been made with a reputable Paris based Robe designer for the purpose.

## **SPECIAL HONOUR**

36. Dame International organized the "Nigerian Women Award Ceremony" on July 25<sup>th</sup> 2002 at the International Conference Centre, Abuja - Nigeria.

The award ceremony was organized to recognize outstanding women Achievers, who have contributed immensely to the development of women in Nigeria and Africa. The President of the Community Court of Justice, Hon. Justice H. N. DONLI, was one of the recipients. Her award was in recognition of her invaluable contributions and commitment to her legal profession in general and international law in particular.



The President and Commander -in- Chief of the Armed Forces of the Federal Republic of Nigeria, Chief Olusegun OBASANJO was in attendance as the special Guest of honour.







## MISSIONS

- 37.
38. Mindful of the role of the Community Court of Justice within the ECOWAS sub-region and the lack of knowledge of its existence by members of the public, the President and Members of the Court, embarked on a sensitization tour of Member States.
39. The first of such enlightenment campaigns of the Court was a Press briefing held in Lagos in August 2001 and Cotonou, Benin Republic in the first week in March 2002.
40. A Member of the Court visited the Court of Justice of the European Communities from the 18<sup>th</sup> and 22<sup>nd</sup> March 2002. The visit was intended to facilitate the establishment of beneficial relationship between the two Institutions. Consequently, the President was invited by the President of the Court of Justice of the European Communities to attend the occasion of the 50th anniversary celebration in Luxembourg from December 2<sup>nd</sup> to 5<sup>th</sup>, 2002. The colloquium organized for the said celebrations brought to bear the key issues of great importance to the institution. These issues range from Preliminary ruling-Evolution of the system, the respective roles of the Court of Justice and the national courts, the obligation to make a reference for a preliminary ruling of courts or tribunals of last instance, Cooperation in the judicial protection of the rights of individuals, the national court as Community court: the limits of "the principle of procedural autonomy", direct access to the Community judicature, access to national courts and references for a preliminary ruling, and protection in the protection of fundamental rights. The foregoing issues are also some of the thorny issues that are of great importance to Court of Justice of our Community.
41. The President and Members of the Court attended a seminar organized for the Justices of the Supreme Court of the Francophone Countries, in Cotonou, Benin Republic from the 13<sup>th</sup> to the 16<sup>th</sup> May 2002. The deliberations centered on the



42. The President of the Court addressed the First Ordinary Session of the Community Parliament of ECOWAS on the activities of the Court at the invitation of His Excellency, the Speaker of the ECOWAS Parliament. The address centred on briefing the parliamentarians about the problems confronting the Court and the steps taken to tackle them. The question and answer session that followed there from was fruitful as it gave them sufficient knowledge about the court. The response at the session was very exciting.

There was a subsequent agreement in Cotonou Benin, that led to the President of the Court to meet with the President of the Supreme Court of Benin Republic on the 14<sup>th</sup> June, 2002 at the Supreme Court, Cotonou, Republic of Benin where issues concerning the implication of NEPAD arrangements were discussed.

The discussions also focused on issues affecting the courts in the sub-region particularly the role of the Courts in the implementation of the New African Initiative (NEPAD) programmes.

44. The President of the Court had audience with the United Nations Secretary - General, Mr. Kofi Annan, on the 12<sup>th</sup> July 2002. She seized the opportunity to brief His Excellency about the existence and activities of the Court from its inception.
45. In the quest to achieve the goals, which the Community Court of Justice was established, seminars and workshops on management were organized for Members of Staff by seasoned Consultants without payment of monetary consideration.



## Chapter Three

### Implementation of Decisions

#### **PREAMBLE:**

46. At their 25<sup>th</sup> Session held in Dakar, from 20<sup>th</sup> - 21<sup>st</sup> December 2001, the Authority of Heads of State and Government considered:
- i) Article 15 of the Treaty, which established the Community Court of Justice as an Institution of the Community;
  - ii) Decision A / Dec. 1/12/00 appointing the Judges of the Court;
  - iii) The Duties and functions of the Court with regards to:
    - a) Judicial settlement of disputes within the Community;
    - b) Interpretation and application of the provisions of the Treaty;
    - c) The dispensation of justice, protection of rights and Interests of the citizens and institutions of the Community;
  - iv) the advancement of the economic, political and social integration of the people of West Africa;
  - v) and mindful of Article 26 which provides that the Seat of Court shall be fixed by the Authority,
47. Accordingly the Authority decided as stated therein in Article 1 of the decision that, " the Seat of the Community Court of Justice shall be located in Abuja, the Federal Capital Territory of the Federal Republic of Nigeria". The decision A/ Dec.23/12/01 refers.
48. The said Article 2 of the decision gave, the Government of the Federal Republic of Nigeria, the authority to grant every facility to the Community Court Justice, including inter alia, the following :
- (a) Privileges and immunities granted by the ECOWAS General Convention on privileges and Immunities and other relevant international instruments;
  - (b) Free and furnished building for the Court and offices for the Judges and staff of the Court;
  - (c) Free and furnished residential accommodation for the Judges commensurate to their status as Judges of an International Court;



(d) Security for the Court premises, residences of the Judges and other International staff of the Court.

(e) Round the clock personal security for the Judges.

### **SEAT OF COURT**

49. The implementation of this very important decision of the Heads of State and Government of the Community is on course. The Government of Nigeria continues to provide the necessary facilities to firmly establish the Court. In this regard the property purchased is situate at plot 1137 Dar es Salaam Crescent , Wuse II, Abuja, Nigeria. The area of location of the Seat of the Court is in the high-brow area of the metropolis, about 15 minutes drive from the ECOWAS Executive Secretariat Asokoro and 45 minutes drive from Nnandi Azikiwe International Airport, Abuja, Nigeria.

### **RESIDENTIAL ACCOMMODATION**

51. The Government of the Federal Republic of Nigeria purchased a magnificent mansion as official residence for the President of the Court, in Maitama Abuja, Nigeria. The residential quarters for the Members of the Court purchased by the Government of Nigeria in Gwarimpa, is a complex comprising of six duplexes, a swimming pool and other recreational facilities.

### **SECURITY**

52. The reaction of the Government of Nigeria to the provision of security for the Court premises, residences of the Judges and round the clock personal security has been encouraging. The Nigeria Police shall deploy security personnel to the Court premises while Police orderlies have been provided for Members of the Court as requested. Even though the implementation of this decision is approaching occupation the Judges have agreed to move to Nigeria in February 2003.

### **FURNISHING**

53. The partitioning and furnishing of the office complex has been contracted to reputable firms by the Federal Government of Nigeria. It is expected that the full utilization of the complex will commence as soon as practicable. However, the first floor has been modestly furnished and is being used as Court room for the time being.



## **HEADQUARTERS AGREEMENT**

54. By virtue of Article 3, the Executive Secretariat was enjoined to negotiate and sign the headquarters agreement with the Federal Republic of Nigeria incorporating inter alia, the provisions of the ECOWAS General Convention on privileges and immunities dated 22<sup>nd</sup> April 1978, and provisions of other relevant international instruments, as provided in Article 2 above.”
55. The headquarters agreement, has been drafted and submitted to the Federal Ministry of External Affairs in March 2002 but up to the time of print of this report no response came to our notice. The delay is highly regrettable. However, the signing ceremony is expected to be at the Seat of Court, Abuja, Nigeria.

## **STATUS OF JUDGES**

56. Decision A/DEC.3/12/01 of the Authority of the Heads of State and Government relates to the granting of the status or Statutory Appointees to the Judges of the Community Court.

## **ALIGNMENT OF SALARIES**

57. Decision A/DEC.3/12/01 relates to the alignment of the salaries of Judges. The salary of the President of the Court was equated to that of the President of ECOWAS Bank for Investment and Development (EBID) while the salaries of the Judges were equated to that of the Managing Director of ECOWAS Bank for Investment and Development (EBID).

The President and Members of the Community Court of Justice are appreciative to the Authority for this recognition.



58. The New Partnership for Africa's Development NEPAD is the result as a pledge made by African leaders, based on a common vision and a firm conviction on the basis of a pressing duty to eradicate poverty and place all African countries, individually and collectively on a path of sustainable growth and development. The poverty and backwardness of Africa stands in contrast to the prosperity of the developed world. This was taken from the consortium of presentations on the subject.
59. Let me recall that the idea about the concept was the work of four African Presidents, namely, Presidents Thabo MBEKI of South Africa, Olusegun OBASANJO of Nigeria, Abdelaziz BOUTEFLIKA of Algeria and Adbdoulaye WADE of Senegal. The new African Initiative was adopted at the Summit of Heads of State of the OAU in Lusaka Zambia from 6 - 7 July 2001 where a 15 - man implementation Committee was also established to govern the implementation of the initiative. In October, 2001 the implementation Committee at a meeting in Abuja, Nigeria adopted the plan, **NEW PARTNERSHIP FOR AFRICA'S DEVELOPMENT (NEPAD)**.
60. The trite that the issue of development is not simply a question of the management of resources. There are other forces which influence the management of such resources and make them productive. In this category is **PEACE**. Where there is no peace there can be no development.

#### **THE ROLE OF REGIONAL COURTS NEPAD - OBJECTIVES.**

61. The Role of regional courts in the implementation of a continental initiative such as NEPAD cannot be overemphasized. NEPAD seeks to bridge the societal gap between Africa and the developed world. This is only possible by the observance of the rule of law, the promotion of peace and the equitable dispensation of justice.



growth and development. The effective integration of the regional Courts such as the Community Court of Justice into the NEPAD initiative will definitely be a great move for the development of the African continent.

63. Typical in the West African sub-region are the numerous exchanges and pledges

documented as the Revised Treaty of the Community. The Community Court of Justice, by virtue of Article 76(2) of the Revised Treaty is responsible for the settlement of disputes arising from the interpretation or the application of the provisions of the relevant Revised Treaty and Protocols already stated herein.

64. It is the role of the Court to ensure compliance by the contracting parties of these exchange of pledges and promises, which are described as co-operation and integration.
65. Since Sovereign States are usually under pressure from national interests and are sometimes reluctant to implement the terms of regional Treaties particularly in relation to cross - border trade, disputes. Consequently disputes are bound to occur which may hamper development and integration.
72. The implementation of NEPAD is primarily through the African Union formerly known as the Organization of African Unity, (O.A.U) and the regional communities such as ECOWAS. The Community Court of Justice, ECOWAS is therefore, within the contemplation of the founding fathers of NEPAD as one of the judicial implementers of the initiative and not the major implementer. The major implementer being the African Court.
73. However, the role of the Court will become even more pronounced if certain amendments proposed by the Court are considered favourably by the Authority of Heads of State and Government of the Community.
74. These proposed amendments relate to the Competence of the Court of ECOWAS to hear matters brought directly by citizens of the Community, as opposed to the current position which requires Member States to represent nationals before the Court, thereby creating an avenue to check the series of Human Rights abuses



75. It is in recognition of the role of the Court in the implementation of NEPAD that invitations were sent for the Court's participation in the summit on NEPAD in Yamoussoukro, Cote D'Ivoire from 13<sup>th</sup> - 17<sup>th</sup> May, 2002, the theme of which was to enhance ownership of the programme by the West African region.



**THE HONOURABLE JUSTICE H.N. DONLI  
FIRST PRESIDENT, COMMUNITY COURT OF JUSTICE, ECOWAS**



## **CONCLUSION**

### **Chapter Five**

#### **Conclusion**

## **VISIONS**

77. The visions and some of the envisaged cases of the Court are as outlined below.
1. Fundamental Human Rights breaches as described by the International Declaration of Human Right adopted on the 16<sup>th</sup> December, 1948 by the United Nations General Assembly as same relate to free - movement for trade etc, at the borders.
  2. The Court will undertake a more extensive process of creating awareness among the populace of Member States. In the mean time, the second volume of the Court's Information Manual will be ready for distribution at the 2003 Summit.
  3. The Court plans to computerize all its proceedings in order to enable it implement the fast-track procedure in the dispensation of Justice.
  4. The Court intends to acquire more land for Staff accommodation and extension of other facilities.

## **COURTESY VISITS**

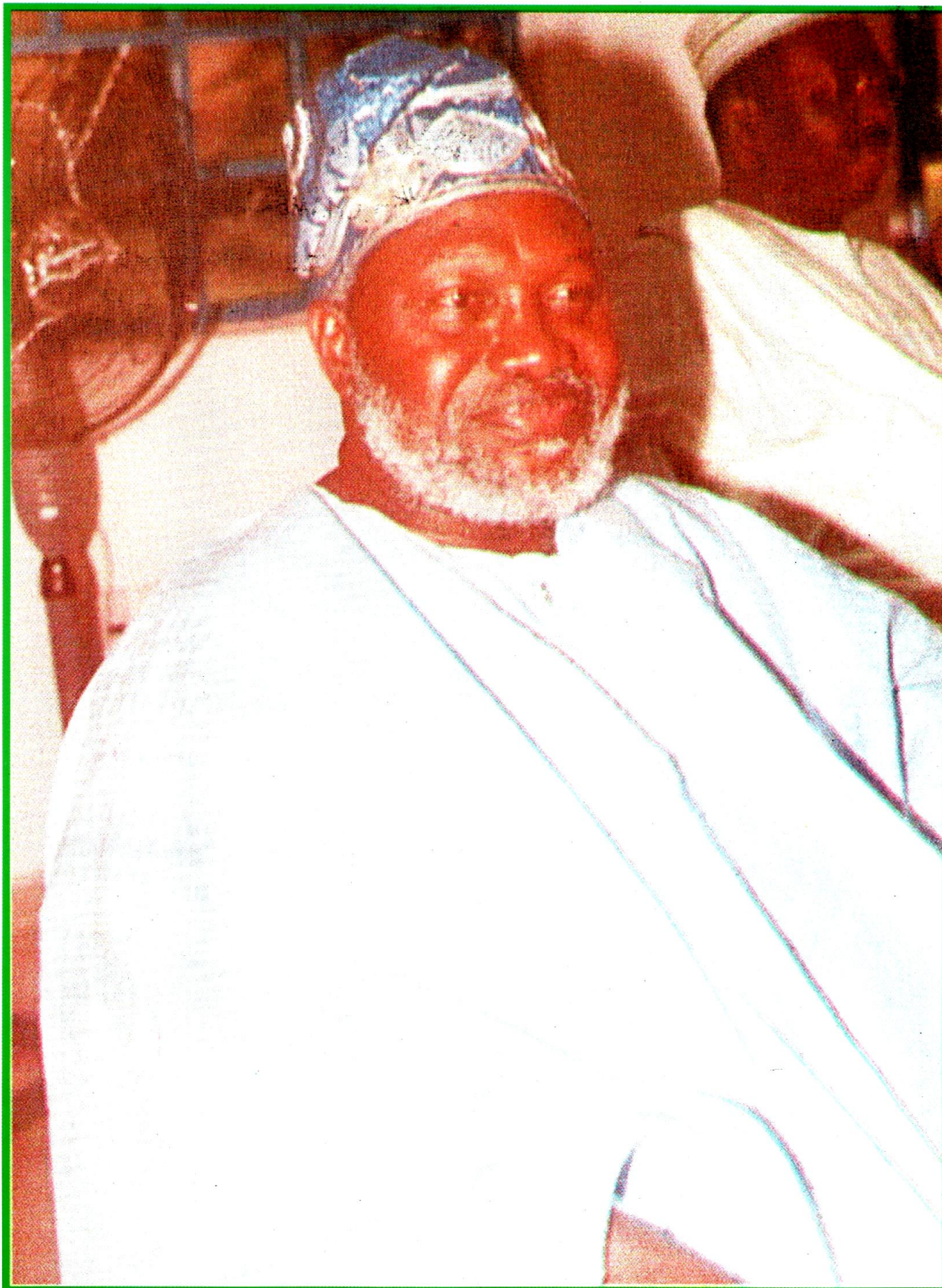
78. The Court had received several courtesy visits from very important dignitaries of the ECOWAS Community. Of particular mention are the following:
79. The Honourable Minister of Cooperation and Integration in Africa, Dr Abimbola OGUNKELU and the Director-General Ambassador Brownson Dede, visited the Seat of the Community Court of Justice, on 30<sup>th</sup> July 2002. After a guided tour of the facilities of the complex, the Honourable Minister subsumed his impression this way :

*" It is really heart-warming to see that the ECOWAS Court of Justice is finally settling down.*

*With best wishes to Madame Presidente and other Judges."*

Signed





**THE HONOURABLE MINISTER OF FEDERAL MINISTRY  
OF COOPERATION AND INTEGRATION IN AFRICA  
DR ABIMBOLA OGUNKELU**



80. Similarly, His Excellency, the Executive Secretary of Executive secretariat of the Community, Dr Mohamed Ibn CHAMBAS paid an official visit to the Seat of the Community Court of Justice, on August 2<sup>nd</sup> 2002.

*The remarks of His Excellency Mohamed Ibn CHAMBAS, are stated thus:*

***" I am really impressed with the facilities. The building is most suited for an august institution such as the Community Court of Justice.***

***Congratulations to your Lordship Justice DONLI for all the efforts to get the CCJ off to a sound and firm start."***

Signed :







81. The ECOWAS Council of Ministers, after the approval of the Rules of the Court, at the Sixth Extra-Ordinary meeting held on 28<sup>th</sup> of August 2002 in Abuja, Nigeria, paid an unscheduled visit to inspect the Seat of the Court.



SHOTS FROM THE VISIT OF ECOWAS COUNCIL OF MINISTERS



82. In spite of the numerous challenges and the long and difficult struggle necessary to establish the Community Court of Justice ECOWAS, Year 2002 marks a new dawn and indeed a significant period of its history.
83. With the acquisition of a magnificent complex at its permanent Seat of Court, residential accommodation for the Members, recruitment of essential staff, and the procurement of vehicles amongst others, are landmark achievements for any establishment at its infancy.
84. With the arrival of the Judges in Nigeria, the Community Court of Justice is no longer a concept in the minds of our citizens, or is it a design on the drawing boards of our leaders. The Court of Justice is indeed, a reality and that which should be regarded as such.
85. Despite the magnitude of the task ahead and the challenges to achieve our goals as the Community Arbiter, we can confidently say, with all sense of modesty and optimism that, the ECOWAS Community is now endowed with a credible organ, designed to speed up the application of decisions taken in common by West African leaders.
86. Permit me, at this juncture, once more to reiterate to our people and Governments that, in the course of the adjudication of matters in respect of the Application and Interpretation of the Treaties of the Community, the Court shall exercise its discretionary power judicially and judiciously.
87. To make the people of West Africa more aware of the goals and vision of the Community Court of Justice, we have published an information handbook in two volumes, which have been translated into the official languages of the Community and already been distributed to Member States.
88. Further information on the Community Court of Justice visit our Website at:- [www.ecowas.int](http://www.ecowas.int)



## Annexure 1

### Summary of The Rules of Procedure

The Rules of Procedure is the life wire of the operations of the Court and without such laid down procedure it would be difficult to file or bring actions before the Court for determination. The Rules of Procedure set out the main organs of the Court and itemize them with precision and clarity.

It provides for all the necessary conditions to effectively control or regulate practice. The Rules of the Community Court of Justice of ECOWAS, is a product of fructose deliberations as well as intensive research carried out by the President and Members of the Community court of Justice. It was derived largely from the rules and Procedures of the Court of Justice of the European Communities, the International Court of Justice and other International Courts.

The Rules of the Community Court of Justice of ECOWAS, has been translated into the official languages of the Court and it contains 101 Articles.

It is divided into five (5) parts viz,

- Interpretation - (Article 1)
- Organization of the Court - ( Articles 2-31)
- Procedure - (Articles 32- 78)
- Special forms of Procedure - (Articles 79-97)
- Miscellaneous provisions - (Articles 98-101)

#### **(Article 1) Interpretation**

This Unit is devoted to defining key terms and terminologies used in the document. It defines terms inter alia as follows :

“Treaty” Means the Revised Treaty of the Economic Community of west African States and includes Protocol and Conventions and Annexure.

“Community” means the Economic Community of West African States referred to under Article 2 of the Treaty.

“Court of Justice” means the Court of Justice of the Community established under Article 15 of the Treaty.



**"Protocol"** means the Protocol relating to the Court of Justice of the Community.

**"Court"** means the Community court of Justice (CCJ) established by Article 15 of the Treaty.

**"Member of The Court" or "Members of the Court"** means a person or persons appointed as Judge or Judges in accordance with the provisions of Article 3 of the Protocol, amongst others.

## **Articles 2-31: Organization of the Court.**

### **JUDGES**

It defines the term of office of the President, Vice-President and prescribes the oath to be taken, ascendancy amongst others.

## **Articles 6-8: Presidency and Composition of the Court**

### **Articles 9-16: REGISTRY**

#### **The Chief Registrar and the Registrars**

These are provisions for the appointment, tenure, functions and responsibilities of the Chief Registrar.

## **Articles 17-20: Other Departments**

### **Articles 21-24: The working of the Court**

This provides dates, times of sessions of the Court as well as the mode and pattern of deliberations.

Article 24 deals specifically with the Court's vacation and mode of operation during recess or vacation.

### **Articles 25-27: Languages**

This provides for the official languages of the Court.

## **Articles 28 - 31: Rights and Obligations of Agents, Advisers and Lawyers.**

### **Articles 32 - 78: Procedure**

#### **Articles 32-40: Written Procedure.**

#### **Articles 41 - 52: Preparatory Inquiries and other Preparatory Measures**



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Article 51: Preparatory Measures

Articles 52- 58 : Oral Procedure.

Article: 59 : Expedited Procedures

Articles 60 - 65: Judgments

Article 66 - 71: Costs Articles

Article: 72 -73: Discontinuance

Article 74: Service

This Article provides for the dispatch, delivery and transmission of procedural documents.

Article: 75 - 77: Time - Limits.

Article 78: Stay of Proceedings

**Article 79 -97: SPECIAL FORMS OF PROCEDURE**

These provisions refer to suspension of operation or enforcement and other Interim Measures.

Articles 87 -88: Preliminary Procedure.

Article 89: Intervention

Article 90: Judgments by default and Applications to set them aside -

Article 91 - 94 : Exceptional Review Procedures.

Article 91: Third - Party proceeding.

Articles 92 - 94: Revision

Articles 95 - 97: Interpretation of Judgments and opinions.

Articles 98 - 101: Miscellaneous Provisions