

**ECOWAS PROTOCOLS &  
SUPPLEMENTARY ACTS  
ON SECURITY AND DEFENCE,  
PEACEKEEPING, CRIME PREVENTION,  
DEMOCRACY AND GOOD GOVERNANCE**

Published by the Ministry of Foreign Affairs, NIGERIA

(Vol. 5)

FOLLOWING:

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**ECOWAS  
PROTOCOLS AND SUPPLEMENTARY ACTS  
ON SECURITY AND DEFENCE,  
PEACE KEEPING, CRIME PREVENTION,  
DEMOCRACY AND GOOD GOVERNANCE**

(Vol. 5)

***Ministry of Foreign Affairs, Abuja, NIGERIA***

*Published 2014*

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**ISBN: 978-978-53411-4-0**

**THIS VOLUME CONTAINS THE FOLLOWING:**

1. **Protocol on Non-aggression.**
2. **Protocol A/SP.3/5/81  
Relating to Mutual Assistance on Defence.**
3. **Convention on Small Arms and Light Weapons, their Ammunition and other Related Matters.**
4. **Supplementary Act A/SA.3/02/13  
Adopting the ECOWAS Strategy for Combating Terrorism and its Implementation Plan.**
5. **Convention A/P.1/7/92  
On Mutual Assistance in Criminal Matters.**
6. **Convention A/P1/8/94  
On Extradition**
7. **Protocol A/P3/12/01  
On the Fight Against Corruption**
8. **Protocol A/P1/10/06  
Establishing an ECOWAS Criminal Intelligence and Investigation Bureau.**
9. **Supplementary Act SA.1/07/13  
Relating to the Establishment and Implementation of the Joint Border Posts Concept within Member States Of The Economic Community Of West African States.**
10. **Protocol A/P1/12/99  
Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.**
11. **Supplementary Protocol A/SP1/12/01  
On Democracy and Good Governance, Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.**
12. **Supplementary Act A/SA.10/01/07  
Relating to the Adoption of Selection Criteria for Determining Membership of ECOWAS Member States on the African Union Peace and Security Council.**
13. **Supplementary Act A/SA.11/01/07  
Changing the Name "Council of Elders" in the English Version of the 1999 Protocol Relating to the Mechanism for Conflict Prevention and Extending the Tenure of the Said Council from One to Three Years.**
14. **Supplementary Act ASP.1/10/09  
On the Adoption of Measures to Ensure the Restoration of Democratic Governance and the Respect of the Rule of Law in the Republic of Niger.**
15. **Supplementary Act ASP.2/10/09  
On the Adoption of Measures for the Restoration of Democratic Governance and the Respect for the Rule of Law in the Republic of Guinea.**
16. **SUPPLEMENTARY ACT A/SA.3/07/10  
Defining the Role of Permanent Representatives of Member States to ECOWAS.**
17. **Supplementary Act A/SA.2/3/11  
On the Lifting of All Sanctions Imposed by ECOWAS on the Republic of Niger.**
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# FOREWORD

In the nearly forty years of its existence, the Economic Community of West African States (ECOWAS) has become a standard flag bearer and a model in Regional Economic integration on the continent of Africa and beyond. ECOWAS was established, on the 28th of May, 1975 by 15 Member states. The ECOWAS founding fathers showed great foresight and courage in overlooking the obvious but minor differences in the post-colonial structures and politics of its Member States. They worked with single-mindedness and with one accord to lay the structures which, has become an international reference point in not just an economic union, but platform for socio-cultural, political fusion and interchange of practices and ideas.

ECOWAS has today become a huge regional investment of fifteen (15) Member States to harness the abundant human and natural resources in the region, by transforming same, into viable developmental projects and programs for the welfare and security of its people. However, the formation, growth and development of ECOWAS was a complex and painstaking process that passed through various phases and stages.

The first stage started with the creation of the legal framework which found expressions in the various landmark Treaties, Protocols, Conventions and Supplementary Acts, presently numbering over 130 Community acts. The second stage witnessed the building of ECOWAS institutional structures like the ECOWAS Commission, ECOWAS Parliament and the ECOWAS Court of Justice amongst many others. During this stage, many of the key institutions of ECOWAS were re-structured, strengthened and empowered for effectiveness.

The third stage resulted in the formulation of numerous people-centered programs and projects along viable and beneficial sectoral lines like the ECOWAS Common Agricultural Policy (ECOWAP), the ECOWAS Common Industrial Policy, the ECOWAS Common Investment Market Initiative, the ECOWAS Trade Liberalization Scheme (ETLS) and Common External Tariff), the ECO-AIR and ECOMARINE, the Common ECOWAS Passport and Visa initiative, ECOWAS Biometric identity card, energy policy and others too numerous to mention here. These programs and projects underpin ECOWAS regional integration processes. Presently, ECOWAS is in the full implementation stage of these programs and projects - a stage where respective Member States based on their specific needs partner with relevant institutions of ECOWAS and international partners, and on the basis of country-specific needs, to implement projects and programs that will benefit its people.

In our capacity as the coordinating Ministry and focal point of ECOWAS matters in Nigeria, the Ministry of Foreign Affairs has worked methodically over the years to enlighten and sensitize Nigerians on these developmental but rich history of ECOWAS, with the aim of enabling Nigerians participate as well as reap from our collective investments in ECOWAS. Thus, in 2006, the defunct Ministry of Cooperation and Integration in Africa became the first Ministry in charge of Regional Integration in the Member States to collate, compile and publish all the Treaty, Protocols, Conventions and Supplementary Acts of ECOWAS in one volume.

This publication soon became a handy resource material for Ministries, Departments, Agencies of Government, students, researchers and ECOWAS Desk Implementation Officers. The Interest exhibited by Nigerians to access the publication necessitated a review and update of the publication by the Ministry of Foreign Affairs between 2006-2010 upon the assumption of all the responsibilities of the defunct Ministry of Cooperation and Integration in Africa.

From the awareness created by the Ministry many Nigerians, professionals, students and stakeholders of different sectors are now interested in utilizing this publication. These ECOWAS Legal Instruments has now evolved into concrete developmental strategies for Nigeria and Nigerian end-users. It is for this reason that my Ministry has decided to streamline the publication into relevant subject and program areas along the lines of the established ECOWAS programmes and projects. Accordingly, while previous publications focused mainly on general themes and the specific programme areas and projects which the legal instruments seek to actualize. This compilation is therefore meant to provide a programme specific tooling device which will enable Nigerian stakeholders easily locate and understand the internal structures, institutions, programs and projects of ECOWAS.

Through this publication, the Nigerian stakeholders will have little difficulty in identifying and accessing the many untapped facilities, resources and rich potentialities which ECOWAS provides.

I strongly believe that the publication will assist Nigerians to develop a regional competitive edge, by providing a fair share of the ECOWAS wealth and resources, leading ultimately to entrepreneurship, job creation sustainable growth. Our work in this regard will not end with this thematic publication, as the publication will signal the beginning of a programmed plan of which ultimately aims to enabling Nigerians to be well informed about ECOWAS programmes and projects in all the six geo-political zones of the country.



**Dr. Nuruddeen Muhammad**

*Hon. Minister of State II For Foreign Affairs.*

## PREFACE

In its continuing determination to enlighten Nigerian citizens and encourage stakeholders' participation in ECOWAS developmental projects and programs, the Ministry of Foreign Affairs have decided to serialize and publish all, the key ECOWAS Legal Instruments into distinctive program areas and subject-related volumes. The serialization entails thematic classification and publication of all the ECOWAS Treaty, Protocols, Conventions and Supplementary Acts into different subject-related heads or sectoral themes along the lines of existing institutional programs, projects and policies of the ECOWAS. This approach is intended to simplify and enhance citizen's understanding of ECOWAS legal instruments and optimize stakeholders' utilization of ECOWAS facilities and its many untapped resources.

To achieve this set objective, the Ministry constituted a publication and editorial team which was mandated to identify and classify all the key Legal Instruments of the ECOWAS into distinctive subject heads and sectoral themes. In carrying out this assignment, the classification method adopted by the publication and editorial team is not arbitrary. The team took into consideration the subject matter(s) of each legal instrument vis-a-vis all the existing and established institutional programs, projects and policies of ECOWAS. Each subject head or themes constitute a volume of the publication, while each volume covers a range of program-specific as well as program-related subject matter which are not mutually exclusive. Following this procedure, the editorial team classified all the legal instruments into 10 distinctive subject heads, covering subjects, institutions and programs such as administration, agriculture, trade and industry, transportation, energy, banking and finance, security and governance, education, health, judiciary and the parliament.

Each of the 10-Volume publication is appropriately titled to reflect its contents and subject matter. These thematic publications will therefore be a handy material for program implementation officers who may need to work on specific policies or programs and other sectoral projects of the ECOWAS. It will also be very useful to Nigerian citizens, ECOWAS stakeholders and end-users' who often get confused in the sheer number and volume of existing ECOWAS Treaty, Protocols, Conventions and Supplementary Acts, presently numbering over

**Volume Two** covers some of the key Community legal instruments which form the core of the economic integration agenda of the ECOWAS. Aply titled ***ECOWAS Protocols on Trade, Customs, Industry and Commerce***, the volume comprises some of the earliest as well as the most recent policy documents which underpin the Community aspirations for an industrial and infrastructural growth, inspired by a competitive intra-community trade. These legal instruments helped in the consolidation of the ECOWAS free trade area through implementation of the ECOWAS Trade Liberalization Scheme (ETLS) as well as the adoption of Common External Tariff (CET).

**Volume Three** is titled ***ECOWAS Protocols on Free Movement of Persons, Immigration, Road Transportation, Motor Vehicle Insurance and Aviation***. It encompasses all ECOWAS programs, projects and policies which aim to eliminate all internal borders through the harmonization of the immigration laws of Members States with the ultimate objective of creating a single community space where citizens can move, settle and trade freely in any country without let or hindrance. The volume also contains the flagship Protocol of the Community relating to the Free Movement of Persons covering all its three key components and phases, namely the Right to Free Movement, the Right of Residence and the Right of Establishment within the ECOWAS sphere.

**Volume Four** covers key priority policy and program areas of the ECOWAS which relates to the social security of its citizenry. Titled ***ECOWAS Protocols on Labour, Social Security, Natural Resources and Agriculture*** the volume comprises Protocols and Supplementary Acts which underpins ECOWAS determination to address the chronic food security challenges in the region, encourage job creation, implement a robust labour and employment policy and management of water resources.

The **Fifth Volume** of the publication encompasses threshold legal instruments relating to ***Security***, Non-aggression, and Mutual Assistance on ***Defence***, Mutual Assistance in Criminal Matters, ***Extradition***, and Strategy for Combating Terrorism, Small Arms and Light Weapons, ***Fight against Corruption***, Mechanism for Conflict Prevention, and Sanctions Against erring Member States and ***Democracy and Good Governance***. The subject matters of these legal instruments combine to provide a twin platform for both the peace and security structures of the Community as well as the constitutional convergence principles which are based on shared values of democracy, freedom of association and speech, popular participation, free market and democratic control of the armed forces.

**Volume Six** comprises a long list of legal instruments which drive Community policies and projects in the emerging sectors of the ***Information and Communication Technology, Telecommunications as well as the rapidly growing energy sector***. *Prominent on this list are the Protocols on Energy, the West African Power Pool, Electronic Transactions within ECOWAS, Personal Data Protection, Regional Electricity Regulatory Authority, the Management of the Radio-Frequency Spectrum, Legal Regime Applicable to Network Operators and Service Providers as well as the Protocol on the Harmonization of Policies and Regulatory Framework for the Information and Communication Technology among others.*

**Volume Seven** is titled ***Protocols and Supplementary Acts on Education, Science and Technology, Youth, Sports and Cultural Affairs***. It contains legal instruments which prepares the ECOWAS Member States and its citizenry for the certain challenges it faces in the future. The volume covers developmental Protocols on Education and Training, sports, the regional Policy on Science, Technology and Innovation, the Youth and Child Policies with their respective strategic plans of action, the ECOWAS Research Policy as well as its cultural framework agreement amongst others.

The **Eight Volume** of the publication is titled ***Protocols and Supplementary Acts on the Community Court of Justice and the ECOWAS Parliament***. In the context of true democracy and principles of separation of powers, this volume provide a governance balance in that it comprises two principal legal instruments (namely, the 1991 Protocol on the Community Court of Justice and the 1994 Protocol relating to the Community Parliament) which complemented the executive powers being exercised by the ECOWAS Heads of State and Government through the ECOWAS Commission.

**Volume Nine** is titled ***Protocols and Supplementary Acts on Banking and Investment, the Budget of the Community, Community Levy, Taxation and Monetary Matters***. The volume incorporates legal instruments that underlie ECOWAS determination to achieve a financial and monetary union which will lead ultimately to the creation of the ECOWAS single currency 'the Eco' by year 2020. This will be achieved through a combination of sound macroeconomic policies, strict banking policy supervision, fiscal and budgetary transparency, good corporate governance and the application of the principles of best practices.

The **final volume** of these compilations relates to a subject matter of current significance to the region and the world at large. Titled ***Protocols and Supplementary Acts on Health, Environment and Humanitarian Policies***, the volume encompasses sign-post legal instruments which deals with the health and environmental concerns of the Community as well as the humanitarian policy responses to address them. Faced with numerous environmental challenges, vulnerability to climate change and the spread of life-threatening diseases, this volume highlights the growing importance of health and environment issues and the need for a robust but targeted regional policy and institutional framework to contain it.

In order to facilitate easy references to its contents, each volume of these compilations has been conveniently divided into different parts with appropriate sub-titles to reflect the contents of each part. Thus, each part covers a program-specific legal instrument(s) with all its relevant supplementary enactments, revisions, amendments and policy documents wherever appropriate. Although each part covers a program-specific subject matter, none should be used or read in isolation, but with reference to other interrelated subject matter(s), program(s) and policies that are covered in other parts or volumes of the 10-volume publications.

These 10-volume compilations accordingly represent a conscious effort and an attempt by the Ministry of Foreign Affairs to systematically codify all ECOWAS Legal Instruments in a way that will simplify and bring the knowledge of ECOWAS to the door steps of our people. It is hoped that this aspiration is realized and that the citizen is effectively mobilized in the building and development of ECOWAS and its people.



**Ambassador Martin Ihoeghian Uhomobhi**  
*Permanent Secretary, Ministry of Foreign Affairs.*

January, 2015

## ACKNOWLEDGEMENT

The decision to compile and publish the ECOWAS Treaty, Conventions, Protocols and Supplementary Acts in ten distinctive volumes in line with established ECOWAS Programmes and Sectoral Projects was approved by the Honourable Minister of State II, Ministry of Foreign Affairs. The thematic nature of the publications invariably necessitated a team work of various professionals, departments, individuals and entities in the collation, classification and the production of the Ten (10) Volume Publications.

Appreciations are extended to Ambassador Ali Ocheni, Head ECOWAS National Unit; Ambassador Ahmed Bala, Director Office of the Honourable Minister of State II, Nura Umar, Special Assistant to the Honourable Ministers of State II, Mr. O.O. Orevba, Director ECOWAS Division, Mr. Ahmed Bashir, Mrs. Maria Ngozi Okonkwo, Mrs. Josephine Onyia-Okwuba and Mrs. Blessing Ekefre.

Our appreciation goes to Chigozie Claris Eruchalu, Principal Partner, GOZIEM CHAMBERS, that assembled a project team comprising Akaka I. Emmanuel (Esq.), Emretane Urerime Chambers Secretary, Dr. Kingsley C. Megwa, Dr. Chris Soley, Linda I. Nnabugwu, Gertrude Amaechi Akaka and Mehmet Kasap whose various research, editorial efforts and professional advice resulted in these publications.

Special thanks also to the personnel and Staff of ECOWAS Commission, particularly the President, the Commissioners, Messrs Daniel Lago, Director Legal Affairs, Mr. Haruna A. Wakani and Henry Nwagboso of the Documentation Section of the Commission for the release of all recent Supplementary Acts and other relevant documents of the ECOWAS Commission to the Collation and Compilation team.

The technical, typesetting and printing of the work was handled by Thonimartins Limited under the guide and direction of Messrs. Anthony Oshoke, Bar. Joseph Oshoke, Felicia Ozemoya and Hamza Isede. To them all, we say thank you.

# **PART I**

## **PROTOCOLS AND SUPPLEMENTARY ACTS ON SECURITY AND DEFENCE, TERRORISM, SMALL ARMS AND LIGHT WEAPONS**

CHAPTER ONE

**PROTOCOL ON NON-AGGRESSION**

## THE HIGH CONTRACTING PARTIES

CONSIDERING that the Economic Community of West African States, (hereinafter referred to as the "Community"), set up by virtue of the Treaty of May 28, 1975, cannot attain its objectives save in an atmosphere of peace and harmonious understanding among the Member States of the Community;

RECALLING Article 2 (4) of the United Nations Charter which provides that all Member States shall refrain, in their international relations, from the threat or use of force against the territorial integrity or independence of any State, or any other manner inconsistent with the purposes of the United Nations;

RECALLING Article 3 (3) of the Charter of the Organisation of African Unity which provides for the respect of the sovereignty and territorial integrity of each State and its inalienable right to independent existence;

RECALLING the Resolution of the Summit Meeting of Heads of State and Government of the Community held in Lome on 5 November, 1976 regarding the signing of an Annexed Protocol on non-recourse to force by Member-States of the Community;

### AGREE AS FOLLOWS:

#### ARTICLE I

Member States shall, in their relations with one another, refrain from the threat or use of force or aggression or from employing any other means inconsistent with the Charters of the United Nations and the Organisation of African Unity against the territorial integrity of political independence of other Member States.

#### ARTICLE 2

Each Member State shall refrain, from committing, encouraging or condoning acts of subversion, hostility or aggression against the territorial integrity or political independence of the other Member States.

#### ARTICLE 3

Each Member State shall undertake to prevent Foreigners resident on its territory from committing the acts referred to in Article 2 above against the sovereignty and territorial integrity of other Member States.

#### ARTICLE 4

Each Member State shall undertake to prevent non-resident Foreigners from using its territory as a base for committing the acts referred to in Article 2 above against the sovereignty and territorial integrity of Member States.

#### ARTICLE 5

1. Member States pledge to respond to all peaceful means in the settlement of disputes among themselves.
2. Any dispute which cannot be settled peacefully among Member States shall be referred to a Committee of the Authority. In the event of failure of settlement by the aforementioned Committee the dispute shall finally go to the Authority.

3. The composition and the mandate of the Committee referred to in the preceding paragraph shall be decided upon by the Authority.

#### ARTICLE 6

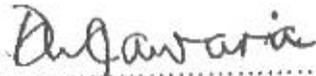
1. This Protocol shall come into effect provisionally on signature by the Heads of State and Government, and definitively on ratification by at least seven signatory States, in conformity with the constitutional regulations of each Member State.
2. This Protocol, as well as all the Instruments of Ratification, shall be deposited with the Executive Secretariat who shall transmit certified true copies of this Protocol to all Member States informing them of the dates on which the Instruments of Ratification have been deposited. The Protocol shall be registered with the Organisation of African Unity, the United Nations Organisation and any other Organisation approved by the Authority.
3. Any Member State may accede to this Protocol and the instrument of accession shall be deposited with the Executive Secretariat.
4. This Protocol shall be annexed to and form an integral part of the Treaty.

**IN WITNESS WHEREOF, WE, THE HEADS OF STATE AND GOVERNMENT IN THE  
ECONOMIC COMMUNITY OF WEST AFRICAN STATES HAVE SIGNED THIS PROTOCOL**

**DONE AT LAGOS THIS 22ND OF APRIL, 1978**

**IN SINGLE ORIGINAL IN THE ENGLISH AND FRENCH LANGUAGES  
BOTH TEXTS BEING EQUALLY AUTHENTIC.**

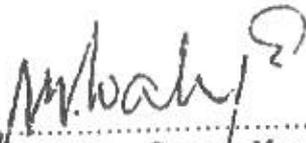




.....  
**H.E. Alhaji Sir Dauda K. JAWARA**  
*President of the Republic of Gambia*

.....  
**Mr. Founéke KEITA**

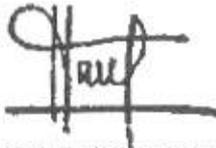
*Minister of Finance and Commerce  
of the Republic of Mali, for and on  
behalf of the Chairman of the  
Military Committee of National  
Liberation, President of the  
Republic of Mali*



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**H.E. Major Gen. George Yaw BOAKYE**  
*for and on behalf of the Head of State and  
Chairman of the Supreme Military Council  
of the Republic of Ghana*



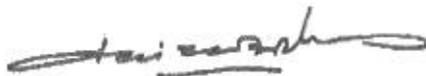
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**H.E. Mr. Moktar Ould DADDAH**  
*President of the Islamic Republic  
of Mauritania*



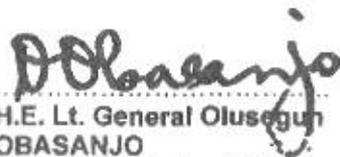
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**Mr. Ismael TOURE**  
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for and on behalf of the Head of State and  
Commander-in-Chief of the People's  
Revolutionary Armed Forces of the  
Republic of Guinea,  
President Ahmed Serou TOURE*

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**Intendant Militaire Moussa  
TONDI**

*Supreme Military Council of the  
Minister of Finance for and on  
behalf of the Republic of  
Niger*



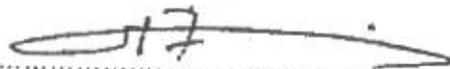
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**H.E. Mr. Luiz CABRAL**  
*President of the Republic of  
Guinea-Bissau*



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**H.E. Lt. General Olusegun  
OBASANJO**  
*Head of the Federal Military  
Government, Commander-in-  
-Chief of the Armed Forces of  
The Republic of Nigeria*



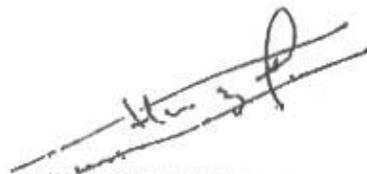
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*President of the Republic of Senegal*



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**H.E. General Gnassingbe EYADEMA**  
*President of the Republic of Togo*



.....  
**H.E Dr. Siaka STEVENS**  
*President of the Republic of  
Sierra Leone*



.....  
**H.E. General A. Sangoule LAMIZANA**  
*President of the Republic of  
Upper Volta*

CHAPTER TWO

**PROTOCOL A/SP.3/5/81  
RELATING TO MUTUAL ASSISTANCE ON DEFENCE**

## PREAMBLE

### THE GOVERNMENTS OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES;

RECALLING Article 2 of the United Nations Charter which calls upon all Member States to refrain in their international relations from resorting to the use of threats or force either against the territorial integrity or the independence of all States in any manner that is incompatible with the aims of the United Nations or from interfering in the internal affairs of other States.

RECALLING Article 3 of the Charter of the Organisation of African Unity which calls upon Member States to respect the sovereignty and territorial integrity of each State and its inalienable right to an independent existence;

MINDFUL of the Treaty setting up the Economic Community of West African States;

RECALLING the Protocol on Non-Aggression signed in Lagos on 22nd April 1978 in accordance with which Member States resolved not to use force as a means of settling their disputes;

CONVINCED that economic progress cannot be achieved unless the conditions for the necessary security are ensured in all Member States of the Community;

CONSIDERING that Member States belong to the same geographical area;

CONSCIOUS of the serious continuous threats of aggression on the African continent in general and their own countries in particular;

CONSCIOUS of the serious risks that the presence of foreign military bases on the African continent may constitute as support forces to external aggression;

FIRMLY RESOLVE to safeguard and consolidate the independence and the sovereignty of Member States against foreign intervention.

CONSCIOUS of the fact that external defence of their States depends entirely on each sovereign State, and that such a defence will be more effective with the co-ordination and pooling together of the means of mutual assistance provided by respective Member States within the framework of this Protocol;

DESIROUS of maintaining the ties of friendship existing amongst Member States and of strengthening their co-operation in all fields on the basis of equality, mutual interests and respects;

**HAVE AGREED as follows:**

#### CHAPTER I DEFINITIONS

##### Article 1

Within the context of this Protocol:

**"Treaty"** means the Treaty of the Economic Community of West African States;

**"Community"** means the Economic Community of West African States;

**"Authority"** means the Authority of Heads of State and Government as defined in Article 5 of the Treaty;

**"Member State" or "Member States"** means a Member State or Member States of the Community;

**"Executive Secretary"** means Executive Secretary of the Community as defined in Article 8 of the Treaty;

**"Aggression"** means the use of armed force by any State against the sovereignty and territorial integrity or political independence of another State or by any other manner incompatible with the Charter of the United Nations and OAU;

**"Assistance on Defence"** means all military aid (material, technical and personnel).

## **CHAPTER II OBJECTIVES**

### **Article 2**

Member States declare and accept that any armed threat or aggression directed against any Member State shall constitute a threat or aggression against the entire Community.

### **Articles 3**

Member States resolve to give mutual aid and assistance for defence against any armed threat or aggression.

### **Article 4**

Member States shall also take appropriate measures such as specified in Articles 17 and 18 of the present Protocol in the following circumstances:

- (a) In case of armed conflict between two or several Member States if the settlement procedure by peaceful means as indicated in Article 5 of the Non-Aggression Protocol mentioned in the Preamble proves ineffective;
- (b) In case of internal armed conflict within any Member State engineered and supported actively from outside likely to endanger the security and peace in the entire community. In this case the Authority shall appreciate and decide on this situation in full collaboration with the Authority of the Member State or States concerned.

## **CHAPTER III INSTITUTIONS**

### **Article 5**

## **SECTION II : THE DEFENCE COUNCIL**

### **Article 7**

1. A Defence Council of the Community shall be established by the Authority.
2. It shall consist of Ministers of Defence and Foreign Affairs of Member States. However, in cases of crisis, the Defence Council shall be chaired by the current Chairman of the Authority and it shall be enlarged to include any other Minister from Member States according to the circumstances. The Executive Secretary and the Deputy Executive Secretary in charge of military matters shall be in attendance at meetings of the Council.

### **Article 8**

1. The Defence Council shall meet on the convocation by its Chairman to prepare the items of the Agenda of Sessions of the Authority dealing with defence matters.
2. In an emergency, the Defence Council shall examine the situation, the strategy to be adopted and the means of intervention to be used.

### **Article 9**

In case of armed intervention, the Defence Council assisted by the Defence Commission shall supervise with the authority of the State or States concerned, all measures to be taken by the Force Commander and ensure that all necessary means for the intervention are made available to him. The actions of the Force Commander shall be subject to competent political authority of the Member State or States concerned.

### **Article 10**

At the end of the operation, the Defence Council shall write a factual report to be addressed to the Authority.

## **SECTION III : THE DEFENCE COMMISSION**

### **Article 11**

1. Defence Commission shall be established by the Authority and shall consist of a Chief of Staff from each Member State.
2. The Defence Commission shall be responsible for examining the technical aspect of defence matters.
3. The Defence Commission shall establish its Rules of Procedure especially in respect of the convening of its meetings, the conduct of the business and the implementation of duties as assigned to it by the Defence Council.

## **CHAPTER IV ADMINISTRATION**

### **Article 12**

1. The Defence Council shall appoint a Deputy Executive Secretary (Military) at the Executive Secretariat for a period of four years renewable only once.
2. The Deputy Executive Secretary (Military) shall be a senior serving military officer.
3. He shall be in charge of the administration and follow-up of the decisions taken by the Authority and in accordance with the present Protocol and under the authority of the Executive Secretary.

4. He shall update plans for the movement of troops and logistics and initiate joint exercises as provided for in paragraph 3 of Article 13 below.
5. He shall be assisted in the discharge of his functions and personnel as determined by the Defence Council.
6. He shall prepare and manage the military budget of the Secretariat.
7. He shall study and make proposals to the Executive Secretariat in respect of all matters relating to personnel and equipment within his jurisdiction.

## **CHAPTER V MODALITIES OF INTERVENTION AND ASSISTANCE**

### **Article 13**

1. All Member States agreed to place at the disposal of the Community, earmarked units from the existing National Armed Forces in case of any armed intervention.
2. These Units shall be referred to as the Allied Armed Forces of the Community (AAFC).
3. In order to better realise the objectives set forth in this Protocol, the Member States may organise, from time to time, as may be approved by the Authority, joint military exercises among two or more earmarked Units of the AAFC.

### **Article 14**

The Allied Armed Forces of the Community shall be under the command of the Forces Commander appointed by the Authority on the proposal of the Defence Council. He shall be entrusted with powers that are conferred upon him by the Authority. He together with the Chief of Defence Staff of the assisted country, shall be the joint Chief of Defence Staff of the Allied Armed Forces and shall be responsible for the implementation of armed intervention and assistance as decided by the Authority. He shall have at his disposal all necessary means of defence.

### **Article 15**

1. Intervention by AAFC shall in all cases be justified by the legitimate defence of the territories of the Community.

#### **Article 18**

1. In the case where an internal conflict in a Member State of the Community is actively maintained and sustained from outside, the provisions of Articles 6, 9 and 16 of this Protocol shall apply.
2. Community forces shall not intervene if the conflict remains purely internal.

### **CHAPTER VI SPECIAL PROVISIONS**

#### **Article 19**

The implementation of this Protocol shall be Supplemented by additional Protocols.

#### **Article 20**

1. Undertakings devolving from the provisions of this Protocol shall not be interpreted as being against the spirit of Conventions or Agreements binding one Member State to another third State or States; provided each Conventions and Agreements are not in conflict with the spirit of this Defence Assistance.
2. Nonetheless, a Defence Agreement concluded with some other State shall be denounced by the Member State concerned as soon as such other State shall have been identified by the Authority as an aggressor against a Member State.
3. Member States shall undertake to end the presence of foreign military bases within their national territories as soon as the Community is in the position to meet their requirements in matters relating to defence.

### **CHAPTER VII GENERAL AND FINAL PROVISIONS**

#### **Article 21**

1. Any Member State which accedes to the Treaty automatically accedes to this Protocol and to the Protocol of Non-Aggression signed in Lagos on the 22nd April, 1978.
2. On the other hand any Member State signatory to this present Protocol and having ratified it, or having acceded to it, becomes party to the above-mentioned Non-Aggression Pact.

#### **Article 22**

1. Any Member State may submit proposals for the amendment or revision of this Protocol.
2. Any such proposals shall be submitted to the Executive Secretary who shall communicate them to other Member States not later than thirty days after their receipt of such proposals. Amendments or revisions shall be considered by the Authority after Member States have been given one month's notice thereof.

#### **Article 23**

1. Any Member State wishing to withdraw from the Protocol shall give to the Executive Secretary one year's written notice. At the end of this period of one year, if such notice is not withdrawn, such a State shall cease to be a party to the Protocol.
2. During the period of one year referred to in the preceding paragraph, such a Member State shall nevertheless observe the provisions of this Protocol and shall remain liable for the discharge of its obligations under this Protocol.

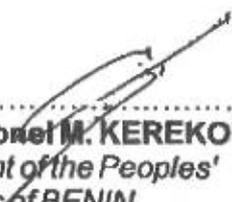
**Article 24**

1. This Protocol shall enter into force provisionally at the signing by the Heads of State and Government, and definitively after ratification by not less than seven (7) signatories, in accordance with the Constitutional Laws of each Member State.
2. This Protocol, as well as all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies to all Member States and notify them of the dates of deposits of the instruments of ratification and shall register it with the Organisation of African Unity (OAU), as well as the United Nations (UN) and any other Organisation as the Authority shall decide.
3. The Present Protocol shall be annexed to and shall form an integral part of the Treaty.

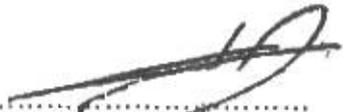
**IN FAITH WHEREOF, WE THE HEADS OF STATE AND GOVERNMENT  
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES  
HAVE SIGNED THE PRESENT PROTOCOL**

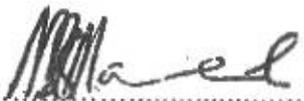
**DONE AT FREETOWN THIS 29TH DAY OF MAY 1981**

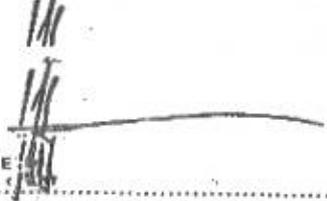
**IN SINGLE ORIGINAL IN THE ENGLISH AND FRENCH LANGUAGES  
BOTH TEXTS BEING EQUALLY AUTHENTIC**

  
.....  
**H.E. Colonel M. KEREKOU**  
*President of the Peoples'  
Republic of BENIN*

.....  
**H. E. Pedro PERES**  
*Prime Minister, for and on  
behalf of the President of  
the Republic of CAPE VERDE*

  
.....  
**H.E. Abdoulaye KONE**  
*Minister of Economy and Finance  
for and on behalf of the President  
of the Republic of IVORY COAST*

  
.....  
**H. E. Dr. Momodou S.K.  
MANNEH**  
*Minister of Economic Planning  
and Industrial Development of  
the Republic of GAMBIA*

  
.....  
**H.E. Dr. Hilla LIMMAN**  
*President of the Republic of GHANA*

  
.....  
**H. E. Ahmed Sekou TOURE**  
*President of the Peoples  
Revolutionary Republic  
of GUINEA*

.....  
**H. E. Commandant Joao  
Bernado VIERA**  
*President of the Republic  
of Guinea Bissau*

  
.....  
**H. E. Lt. Colonel Felix  
TIEMTARUBOUM**  
*Minister of Foreign Affairs and  
Cooperation for and on behalf  
of the Head of State of the  
Republic of UPPER VOLTA.*



.....  
**H. E. Master Sergeant. S. K. DOE**  
*Chairman. Peoples Redemption  
Council and Head of State of  
the Republic of LIBERIA*

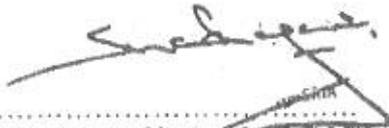
.....  
**H. E. Drissa KEITA**  
*Minister of Finance, Commerce  
for and on behalf of the President  
of the Republic of MALI*



.....  
**H.E. M. M. K. OULD HADALLA**  
*President of the Republic of Mauritania*



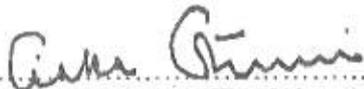
.....  
**H.E. Hamid ALGABID**  
*Minister of Commerce for and on  
behalf of the Supreme Military  
Council of the Republic of NIGER*



.....  
**H. E. Alhaji Shehu SHAGARI**  
*President of the Federal Republic  
NIGERIA*



.....  
**H. E. Abdou DIOUF**  
*President of the Republic of  
SENEGAL*



.....  
**H. E Dr. Siaka STEVENS**  
*President of the Republic of  
SIERRALEONE*



.....  
**H.E. General Gnassingbe EYADEMA**  
*President of the Republic  
of TOGO*

CHAPTER THREE

**CONVENTION  
ON SMALL ARMS AND LIGHT WEAPONS, THEIR  
AMMUNITION AND OTHER RELATED MATTERS**

## PREAMBLE

### **WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS);**

MINDFUL of Articles 7, 8, and 9 of ECOWAS Revised Treaty relating to the creation, composition and function of the Conference of Heads of State and Government;

MINDFUL of Article 58 of the revised ECOWAS Treaty relating to Regional Security which stipulates that Member States undertake to work to safeguard and consolidate relations conducive to the maintenance of peace, stability and security within the region and to establish and strengthen appropriate mechanisms for the timely prevention and resolution of conflicts;

MINDFUL of Article 77 of the Treaty relating to sanctions applicable in cases where a Member State fails to fulfil its obligations to the Community;

MINDFUL of the relevant provisions of the Protocol on the Community Court of Justice adopted on 16 July 1991, the ECOWAS conventions on mutual legal assistance and extradition, signed respectively in Dakar on 29 July 1992 and Abuja on 6 August 1994;

MINDFUL of the Protocol on Non-aggression signed in Lagos on 22 April 1978 and the Protocol on Mutual Assistance in Defence Matters signed in Freetown on 29 May 1981, and more particularly our determination to provide mutual assistance in defence matters in the event of armed aggression or threat of aggression against a Member State;

RECALLING the principles of the Charter of the United Nations, particularly the principle that States shall have the right to defend themselves both individually and collectively, the principle of non-intervention and non-interference in internal affairs of another State, and the principle that each Member shall avoid recourse to the threat or use of force;

RECALLING also the relevant provisions of the Constitutive Act of the African Union, including the decision by the Executive Council of the African Union requesting the African Union Commission to take necessary measures to establish a legal instrument to prevent, combat and eradicate illicit trade in small arms and light weapons in Africa;

RECALLING equally the ECOWAS Protocol relating to the Conflict Prevention, Management and Resolution, Peace-keeping and Security signed in Lome on 10 December 1999, particularly Articles 3, 50 and 51 relating to the control of the proliferation of small arms and light weapons and illegal circulation of such arms;

TAKING INTO ACCOUNT resolutions of the United Nations Security Council imposing arms embargos on countries in the West African sub-region;

ALSO TAKING INTO ACCOUNT the Bamako Declaration of 1st December 2000 on the common African position on the proliferation, circulation and illicit trade in small arms and light weapons;

EQUALLY TAKING INTO ACCOUNT other international, regional and sub-regional initiatives aimed at curtailing the proliferation of small arms and light weapons, and the decision relating to the common African position on the review of the United Nations programme of action on small arms and light weapons adopted in Khartoum in January 2006;

CONSIDERING that the proliferation of small arms and light weapons constitutes a major destabilising factor in ECOWAS Member States and poses a serious threat to the peace and stability of our peoples;

DEEPLY CONCERNED about the uncontrolled flow of small arms and light weapons into Africa in general and West Africa in particular, and aware of the need to effectively control the transfer of arms by suppliers and arms brokers;

AWARE of the need to build peace and prevent conflicts in West Africa, and the disastrous consequences the proliferation of small arms and light weapons has on the prolongation of armed conflicts and illegal exploitation of natural resources;

AWARE OF THE NEED to prevent, combat and eradicate the illicit manufacture and excessive accumulation of small arms and light weapons, trafficking, detention and use of such arms, which have been seen to have negative effects on the security of each country in the sub-region, human security, international humanitarian law, sustainable development, and human rights;

DETERMINED to achieve the objectives outlined in the Declaration on the Moratorium on the Importation, Exportation and Manufacture of Light Weapons in ECOWAS Member States signed in Abuja on 31 October 1998 and in the Code of Conduct for the implementation of the Moratorium adopted in Lome on 10 December 1999;

DETERMINED ALSO to consolidate the gains of the Moratorium on the Importation, Exportation and Manufacture of Light Weapons and its Code of Conduct, and to take into account the shortcomings observed, with a view to taking corrective measures;

RECOGNISING in this regard the progress achieved in the implementation of the Moratorium, thanks to contributions by the Plan of Action of the Programme for Coordination and Assistance for Security and Development (PCASED);

CONSCIOUS of the need to strengthen the institutional and operational capacity of the ECOWAS Executive Secretariat in order to enable fight more effectively against the proliferation of small arms and light weapons, with a view to obtaining the desired results;

CONSIDERING the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects adopted in 2001;

CONSIDERING the United Nations international instrument adopted in 2005 which seeks to enable States to identify and rapidly trace small arms and light weapons, and the UN Protocol on the manufacture and illicit trade in fire arms, spare parts, components and ammunition adopted in 2001;

TAKING INTO ACCOUNT Security Council Resolution 1325 (2002) on women, peace and security which recognises the specific role of women in peace building;

DEEPLY CONCERNED by the use of children in armed conflicts, and taking account of the United Nations Security Council resolutions on children and armed conflicts;

RECOGNISING the important contribution of civil society organisations in the fight against the proliferation of small arms and light weapons;

BEARING IN MIND the Final Communiqué issued at the end of the Summit of ECOWAS Heads of State and Government held in Dakar on 30 January 2003 which directed the ECOWAS Executive Secretariat to examine the possibility of transforming the Moratorium into a Convention;

**HEREBY AGREE AS FOLLOWS:**

**CHAPTER I**  
**DEFINITIONS AND OBJECTIVES**

**Article 1**  
**Definitions**

For the purpose of this Convention:

1. **LIGHT WEAPONS:** Portable arms designed to be used by several persons working together in a team and which include notably:
  - heavy machine guns;
  - portable grenade launchers, mobile or mounted;
  - portable anti-aircraft cannons;
  - portable anti-tank cannons, non-recoil guns;
  - portable anti-tank missile launchers or rocket launchers;
  - portable anti-aircraft missile launchers;
  - mortars with a calibre of less than 100 millimetres;
2. **SMALL ARMS:** Arms used by one person and which include notably:
  - firearms and other destructive arms or devices such as an exploding bomb, an incendiary bomb or a gas bomb, a grenade, a rocket launcher, a missile, a missile system or landmine;
  - revolvers and pistols with automatic loading;
  - rifles and carbines;
  - machine guns;
  - assault rifles;
  - light machine guns.
3. **AMMUNITION:** Devices destined to be shot or projected through the means of firearms including among others:
  - cartridges;
  - projectiles and missiles for light weapons;
  - mobile containers with missiles or projectiles for anti-aircraft or antitank single action systems;
4. **OTHER RELATED MATERIALS:** All components, parts or spare parts for small arms or light weapons or ammunition necessary for its functioning; or any chemical substance serving as active material used as propelling or explosive agent;
5. **ILLICIT:** Covers all that is carried out in violation of this Convention;
6. **MARKING:** Inscriptions permitting the identification of arms covered by this Convention;
7. **TRACING:** Indicates the systematic monitoring of the movements of small arms and light weapons and their ammunition and other related materials, from the manufacturer until the end user, with a view to helping member States competent authorities to detect illicit manufacture and trading;

8. **BROKERING:** Work carried out as an intermediary between any manufacturer, supplier or distributor of small arms and light weapons and any buyer or user; this includes the provision of financial support and the transportation of small arms and light weapons;
9. **TRANSFER:** Includes import, export, transit, transshipment and transport or any other movement whatsoever of small arms and light weapons, ammunition and other related materials from or through the territory of a State;
10. **NON-STATE ACTORS:** Such as any actor other than State Actors, mercenaries, armed militias, armed rebel groups and private security companies;
11. **SMALL ARMS AND LIGHT WEAPONS:** In this Convention this shall be deemed to include ammunition and other related materials.

## **Article 2 Objectives**

The objectives of this Convention are:

1. To prevent and combat the excessive and destabilising accumulation of small arms and light weapons within ECOWAS;
2. To continue the efforts for the control of small arms and light weapons within ECOWAS;
3. To consolidate the gains of the Declaration of the Moratorium on the importation, exportation and manufacture of small arms and its Code of Conduct;
4. To promote trust between the Member States through concerted and transparent action on the control of small arms and light weapons within ECOWAS;
5. To build institutional and operational capacities of the ECOWAS Executive Secretariat and the Member States in the efforts to curb the proliferation of small and light weapons, their ammunitions and other related materials;
6. To promote the exchange of information and cooperation among the Member States.

## **CHAPTER II TRANSFER OF SMALL ARMS AND LIGHT WEAPONS**

### **Article 3 Prohibition of transfer of small arms and light weapons**

1. Member States shall ban the transfer of small arms and light weapons and their manufacturing materials into their national territory or from/through their national territory.
2. Member State shall ban, without exception, transfer of small arms and light weapons to Non-State Actors that are not explicitly authorised by the importing Member.
3. Small arms and light weapons as defined in this Convention shall not be deemed to be goods for the purpose of Article 45 of ECOWAS Revised Treaty of 1993.

### **Article 4 Conditions of Exemption**

1. A Member State can request exemption from the provisions of Article 3 (b) in order to meet legitimate national defence and security needs, or to participate in peace support or other operations in accordance with the decisions of the United Nations, African Union, ECOWAS, or other regional or sub-regional body of which it is a member.

2. For the purpose of paragraph 1 of this Article, Member States shall establish and maintain an effective system of export and import licensing or authorisation, as well as of measures on international transit, for the transfer of small arms and light weapons.
4. Each Member State shall take such measures as may be necessary to ensure that licensing or authorisation procedures are secure and that the authenticity of licensing or authorisation of the documents can be verified and validated.

#### **Article 5 Procedures for Exemption**

1. The request for exemption for an arms transfer is transmitted for examination to the ECOWAS Executive Secretariat and must contain information on:
  - a) Details of the arms to be transferred - the quantity, exact type and kind of arms using ECOWAS classification system, including all serial numbers and other marks;
  - b) Details of the supplier - full details (name of company and representative, address, and full contact details) of all companies and individuals involved, including brokers where relevant;
  - c) Details of the supply process - the number and period of shipments, the routes including transit locations, the type of transport to be used, all companies involved in importing, freight forwarding and handling, details of the storage and management of the weapons whilst being transferred, the time period covered by the activity for which the exemption is requested;
  - d) Details of the final end user - name of individual/company/ institution and representative responsible, confirmation from relevant national authority that the end user is authorised to import weapons;
  - e) Details of the end use.
2. The ECOWAS Executive Secretary shall apply the criteria for Article 6 of this Convention for exemption requests as well as those of paragraph (a) of this Article. Reasoned opinion of the ECOWAS Executive Secretary shall be sent confidentially to the Member State in order to confirm or refuse the opinion given. The final decision of Member States shall be taken by consensus. In the absence of a consensus, the exemption request as well as the reasoned opinion of the Executive Secretary shall be submitted for a final decision to the ECOWAS Mediation and Security Council.
3. The granting of an exemption shall be transmitted to the Member State concerned by the ECOWAS Executive Secretary through the issuing of an exemption certificate. The exemption certificate once issued must accompany the request for an export licence as well as the End-User-Certificate.
4. The ECOWAS Executive Secretary shall forward to the Member States information on exemptions and refusals granted within 90 days. The Executive Secretary shall also compile and publish a comprehensive annual report detailing all International arms transfers granted exemptions, and a list of refusals.

#### **Article 6 Cases for Refusal of Exemptions for Transfers**

1. A transfer shall not be authorised if:
  - a) Authorisation on export, import, transit, transshipment or brokering considered as donation has not been provided by all States directly concerned with the transfer;

- b) All the required information has not been supplied to the ECOWAS Executive Secretary;
  - c) The arms have not been marked according to requirements under this Convention.
2. A transfer shall not be authorised if its authorisation violates obligations of the requesting States as well as those of Member States, under international law including:
- a) Obligations under the Charter of the United Nations including:
    - i. Binding resolutions of the United Nations Security Council such as those imposing arms embargoes;
    - ii. The prohibition on the use or threat of use of force;
    - iii. The prohibition on intervention in the internal affairs of another State.
  - b) Universally accepted principles of international humanitarian law.
  - c) Any other treaty or decision by which the Member States are bound, including:
    - i). binding decisions, including embargoes, adopted by relevant international, multilateral, regional and sub-regional bodies, such as the African Union Peace and Security Council, to which a State is party;
    - ii) Prohibitions of arms transfers that arise in particular treaties which a State is party to, such as OTTAWA Convention on Antipersonnel Mines, the 1980 Convention on Certain Conventional Weapons and its Protocols.
3. A transfer shall not be authorised if the arms are destined to be used:
- a) for the violation of international humanitarian law or infringement of human and peoples' rights and freedoms, or for the purpose of oppression;
  - b) for the commission of serious violations of international humanitarian law, genocide or crimes against humanity;
  - c) to worsen the internal situation in the country of final destination, in terms of provoking or prolonging armed conflicts, or aggravating existing tensions;
  - d) to carry out terrorist acts or support or encourage terrorism;

**CHAPTER III  
MANUFACTURE OF SMALL ARMS AND LIGHT WEAPONS**

**ARTICLE 7  
Control of the Manufacture of Small Arms and Light Weapons**

1. Member States shall undertake to control the manufacture of small arms and light weapons within their national territories;
2. Each Member State shall regulate the activities of local small arms and light weapons manufacturers and shall undertake to adopt strategies and policies to the reduction and/or limitation of the manufacture of small arms and light weapons so as to control the local manufacture as well as their marketing in ECOWAS region.
3. Member State shall undertake to draft an exhaustive list of local manufacturers of small arms and light weapons and the registration of each of them into the national arms registers;
4. Where production and/or assembly capacities of small arms and light weapons exist within the ECOWAS region, Member States shall submit to the Executive Secretary. This data shall include the type of the arms and their quantity on their annual production.

**ARTICLE 8  
Measures of Control for Small Arms and Light Weapons**

**Manufacture**

Without prejudice to the other measures that Member States will undertake to ensure the effective control of the manufacturing of small arms and light weapons on their national territory, a request for the manufacture of small arms and light weapons will not be granted if the requesting person has not given information relating to:

- a) Details of the arms to be manufactured - the quantity, exact type and kind of arms using ECOWAS classification system, including all serial numbers and other;
- b) The procedure for marking; the procedure for entering details of each small arm and light weapon into the national small arms and light weapons register; information on the storage and management of the weapons after manufacture.

**CHAPTER IV  
TRANSPARENCY AND EXCHANGE OF INFORMATION**

**Article 9  
National Database and Registers of Small Arms and Light Weapons**

1. Member State shall establish where they do not exist already, national computerised registers and database of small arms and light weapons.
2. The following information shall be recorded in the national registry:
  - a) Description of the product (type or model, caliber) and quantity (if it concerns a batch);
  - b) the content of the marking;
  - c) the names and addresses of the former and current owners and, when possible, successive owners;
  - d) the date of registration;
  - e) information concerning each transaction including:

- i. the name and address of the shipper, the intermediary (where applicable), the consignee and the user indicated on the end-user certificate;
  - ii. the point of departure, transit and destination, as well as the customs references and the dates of departure transit and delivery to the end-user;
  - iii. the export, transit and import licence (quantities and batches corresponding to the same licence as well as the validity of the licence);
  - iv. full details concerning the method of transport and transporter(s);
  - v. the controlling agency or agencies (at point of departure, transit and entry);
  - vi. the nature of the transaction (commercial, non-commercial, private or public, conversion, repair);
  - vii. where applicable, the insurer and/or the financial institution intervening in the transaction.
3. Records shall be permanently kept in the register.

#### **Article 10**

#### **ECOWAS Small Arms and Light Weapons Database and Registers**

1. Member States undertake to establish a sub-regional database and register of small arms and light weapons under the ECOWAS Executive Secretary as a way of promoting confidence.
2. The ECOWAS Executive Secretariat shall develop in collaboration with the Member States the procedures for the setting up and management of the database and register as well as the issues to be covered.
3. The Member States shall provide the ECOWAS Executive Secretariat with all the necessary information for the operation of the sub-regional database and register of small arms and light weapons. Member States also undertake to transmit an annual report to the ECOWAS Executive Secretary detailing their orders or purchase of small arms and light weapons.
4. The ECOWAS Executive Secretary shall present an annual report on the workings of the sub-regional database and register of small arms and light weapons at the Summit of Heads of State and Government.

2. The ECOWAS Executive Secretary shall take the necessary measures to ensure the adequate recording of the information transmitted by the Member States participating to peace operations.
3. Records shall be permanently kept in the register.

**Article 12**  
**Dialogue with Manufacturers and Suppliers**

1. The ECOWAS Executive Secretary and each Member States shall strengthen cooperation and dialogue with national and international manufacturers and suppliers of arms as well as with the competent international and regional organisations in order to ensure their support, respect for and compliance with the spirit and the letter of this Convention.
2. The ECOWAS Executive Secretary shall take the necessary measures to take advantage of the information available from Member States of the Wassenaar Arrangement, the European Union and other Manufacturers and suppliers of arms, in order to strengthen the effective implementation of this Convention.

**Article 13**  
**Prevention of and the Fight Against Corruption**

Member State shall institute appropriate and effective measures for cooperation between administrative departments concerned and law enforcement agencies to curb corruption associated with the illicit manufacturing of, trafficking in, illicit possession and use of small arms and light weapons

**CHAPTER V**  
**OPERATIONAL MECHANISM**

**Article 14**  
**Control of Possession of Small arms and Light Weapons by Civilians**

1. Member States shall prohibit the possession, use and sale of light weapons by civilians.
2. Member States shall regulate the possession, use and sale of small arms by civilians.
3. Authorisations may be granted to permit individual possession of one or more small arms and their ammunition in line with the legislation of each Member State. Applications for such authorisations shall be processed by relevant national authorities. All applicants must the relevant national authority in person. The Executive Secretary shall develop and communicate authorisation procedures to the relevant national authority.
4. Member States undertake to implement a strict control regime for civilian possession of the small arms. The authorisation procedure will involve issuing a license from the relevant national authority for each small arm used by a civilian. Member States shall not grant an authorisation if the applicant does not meet the following criteria:
  - a) The required minimum age;
  - b) Applicant does not have criminal record and has not been subject to morality investigation;
  - c) Proof of a legitimate reason to possess, carry or use for each small arms;
  - d) Proof that the prospective owner has undergone safety training and competency training including training in the relevant laws regarding small arms;
  - e) Proof that the weapon will be stored in a safe place and separately from its ammunition.

5. Member States shall impose a limit on the number of weapons a licence may cover and require a 'cooling off period' of at least 21 days before an authorisation is granted for the possession of each weapon. Member States shall include an expiration date on each licence and authorisations shall be subject to periodic review. Contravention of regulations concerning possession of small arms in private hands will allow the small arms to be seized by the authorities, the licence/authorisation revoked, and adequate sanctions including penalties applied.
6. Member States shall include information regarding the civilian possession of small arms within the national small arm database and register established under Article 9 of the present Convention.
7. Member States undertake to introduce minimum penal sanctions for the illicit possession and use of small arms and light weapons and the carrying of unlicensed small arms.

#### **Article 15 Visitors' Certificates**

1. Each Member State shall take the appropriate measures demanding that visitors wanting to import temporarily small arms covered by this Convention for the duration of their temporary stay in the ECOWAS region, prepare in advance an application including information about the purpose, type and marking of small arms to be imported into one of the ECOWAS territories and to declare the arms on their arrival. Such application shall be addressed to the relevant authorities of the Member State concerned for decision.
2. ECOWAS Executive Secretary shall issue guidelines on the procedures to be followed and communicate them to the relevant authority.
3. If the request is agreed, the competent national authorities shall issue to the visitors an entry certificate and an exit declaration at the visitors' arrival and departure.
4. All certificates shall be recorded by the Member States concerned in the national small arms register referred to in compliance with the above mentioned Article 9.

#### **Article 16 Management and Security of Stockpiles**

1. Member States shall take the necessary measures to ensure the safe and effective management, storage and security of their national stocks of small arms and light weapons;
2. To this effect, Member States shall establish effective standards and procedures for stockpile management, storage and security. These standards and procedures shall include:
  - a) appropriate site;
  - b) physical security measures of storage facilities;
  - c) inventory management and record keeping;
  - d) staff training;
  - e) security during manufacture and transportation;
  - f) sanctions in case of theft or loss.
3. Member States shall ensure that stockpiles of small arms and light weapons by manufacturers, dealers as well as individuals are securely stored in accordance with the appropriate standards and procedures;

4. Member States shall undertake to regularly review, in accordance with national laws and standards, the storage facilities and conditions of small arms and light weapons held by their armed and security forces and other authorised bodies in order to identify, for disposal, surplus and obsolete stocks;
5. The Executive Secretary shall ensure, in collaboration with Member States, that effective standards and procedures for stockpile management of weapons collected in the context of peace operations are duly observed.

**Article 17**  
**Collection and Destruction of Small Arms and Light Weapons**

1. Member States shall undertake to collect and/ or destroy:
  - a) the arms which are surplus to the national needs or have become obsolete;
  - b) seized weapons;
  - c) unmarked weapons;
  - d) illicitly held weapons;
  - e) arms collected in the implementation of peace accords or programmes for the voluntary handing in of weapons.
2. All weapons so collected must be registered and securely stored and or destroyed.
3. Member States undertake to promote and/or carry out programme of voluntary handing in of weapons.

**Article 18**  
**Marking**

1. For identification purposes, all small arms and light weapons, their ammunition and other materials, considered as essential by the supplier, shall be assigned a unique and specific marking upon manufacture; this marking shall include the following elements:
2. For small arms and light weapons covered under this Convention,
  - a) "Classic marking" shall include a unique serial number, the manufacturer's identity, as well as the identification of the country and year of manufacture. Information concerning the purchaser's identity and the country of destination should also be included if known at the time of manufacture. The markings shall be expressed alphanumerically. They must be legible and should be featured on a maximum number of main parts of the weapon, and at the very least on the part designated by the manufacturer as essential as well as on one other important part of the arm;
  - b) A "Security marking" shall be applied to all weapons produced after the entry into force of this Convention. This will permit the identification of the weapons in the event that classic markings have been destroyed or falsified. Security markings must be undertaken on component parts that are not easily manipulated after the weapon's manufacture, and the falsification of which would render the weapon unusable;
  - c) Member States that import a small arm that is not marked in accordance with the provisions outlined under paragraph a) and b) above shall:
    - i. Apply a classic marking if the weapons were manufactured before the entry into force of this Convention;

- ii. Apply a classic marking and a security marking if the weapons were manufactured after the entry into force of this Convention; failing this, the weapons cannot be imported or must be destroyed.
- iii. If the importing country and the year of import are not known at the time of manufacture, the acronym of the importing State and the year of importation are marked by a competent institution in the importing country.

3. For ammunition:

- a) The markings shall include a unique lot number, the manufacturer's identity, as well as the country and year of manufacture. Information concerning the purchaser's identity and the country of destination should also be included if known at the time of manufacture. These details must feature at least once on the jacket (i.e. cartridge) containing the powder or liquid used in the ammunition or explosive. The markings shall be expressed alphanumerically.
- b) The smallest ammunition packaging shall include information outlined under 2(a).

**Article 19**  
**Tracing**

1. Member States shall exchange information on illicit small arms and light weapons and on seized small arms and light weapons, as well as trafficking in weapons that contravene international law or the internal laws of the States in which the operations take place (condemnation of the person or institution implicated, sanctions, disposal, destruction methods, neutralisation).
2. In the case of other small arms and light weapons, Member States shall exchange the following data on a regular basis:
  - a) on manufacture (the marking system and techniques used, and authorised manufacturers);
  - b) on transfers (exports to and/or imports from all other States, transits, information available concerning national legislation, existing practices and controls, authorised dealers and brokers);
  - c) on existing stockpiles (management, inventory, security, surplus, losses, theft, destruction).
3. The Executive Secretary shall receive request for exemption and shall act in accordance with Article 5 of this Convention.
4. A Member State may initiate a tracing request with the Executive Secretary.

6. Member States receiving a tracing request shall acknowledge receipt within a reasonable time frame.
7. Member States shall provide reliable responses to tracing requests made by other Member States within one month from the date of receipt of the said request.
8. In responding to a tracing request, the requested Member States shall provide all available information sought by the requesting Member States that is relevant for the purpose of tracing illicit small arms and light weapons.
9. The requested Member States may seek additional information from the requesting Member States where a tracing request does not contain the information required in Paragraph 3 (b) above.

#### **Article 20 Brokering**

1. Member States shall register all citizens and all companies incorporated in their territory that are brokering small arms and light weapons, including financial agents and transportation agents on armament and shall make such registration a requirement for their licit operation.
2. Member State shall ensure that all registered small arms and light weapons brokering agents obtain an explicit authorisation for each individual transaction in which they are involved irrespective of where the arrangements take place.
3. Member States shall require that all small arms and light weapons brokering license applications for authorisation provide full disclosure of relevant import and export licences or authorisations and associated relevant documents, the names and locations of all brokering and shipping agents involved in the transaction and the transit routes and points of the small arms and light weapons shipments.
4. Member States shall adopt such legislative and other measures to punish and establish as a criminal offence the illicit brokering of small arms and light weapons.
5. Brokering activities may be assessed under Article 1 and 6 of the present Convention.

#### **Article 21 Harmonization of Legislative Provisions**

1. Member States shall undertake to revise and update national legislation to ensure that the provisions in this Convention are minimum standards for small arms and light weapons control and their ammunition as well as other related materials.
2. Each Member State shall adopt legislative and other necessary measures to establish as a criminal offence in the following cases:
  - a) any activity carried out in violation of the provisions of this Convention;
  - b) any activity carried out in violation of an arms embargo imposed by the United Nations, the African Union or ECOWAS;
3. The Executive Secretary shall elaborate and propose to Member States guidelines for harmonization of legislative provisions.

#### **Article 22 Strengthening of Border Controls**

Member States, in collaboration with the ECOWAS Executive Secretary, shall:

- a) Strengthen sub-regional cooperation among defence and security forces, intelligence services, customs and border control officials in combating the illicit circulation of small arms and light weapons.
- b) Enhancing the capacity of national defence and security forces, law enforcement and security agencies, including appropriate training in investigative procedures, border control and law enforcement techniques, and upgrading of equipment and resources;

#### **Article 23**

#### **Public Education and Awareness Programmes**

1. In the interest of promoting a culture of peace, Member States shall design public/community education and awareness programmes at local, national and regional levels in order to involve the population in the efforts to curb the proliferation of small arms and light weapons. .
2. Member States in this regard shall undertake to develop and/or strengthen their partnership with civil society organisations at local, national and regional level including women, youth and others, for better information and raise public awareness on the dangers of the proliferation of small arms and light weapons.
3. Member States shall encourage civil society organizations to play a leading role in creating awareness and education of the population.

#### **CHAPTER VI**

#### **INSTITUTIONAL AND IMPLEMENTATION ARRANGEMENTS**

#### **Article 24**

#### **Member States**

1. Within the framework of the implementation of this Convention, the States Parties which have not yet done so, shall establish through regulation or legislation a National Commission in accordance with Article 51 of the Protocol on mechanism for preventions, management, resolution of conflict and keeping peace and security and with the enforcement of the decision of the Conference of Heads of State and Government on December 10th 1999 on the establishment of National Commissions for the fight against the illicit proliferation and circulation of light weapons.
2. The National Commissions shall be established according to the existing ECOWAS guidelines contained in the National Manual prepared by ECOWAS.

- b) provide the Member States with the necessary financial and technical support for the realisation of their activities;
  - c) ensure the monitoring and implementation of this Convention;
  - d) present an annual Report to the Summit of Heads of State and Government on the status of implementation of the Convention.
  - e) If ECOWAS Executive Secretary deems it necessary, refer a specific urgent and/or serious question regarding the application of this Convention to the ECOWAS Mediation and Security Council.
2. The Executive Secretary shall develop a Plan of action for the implementation of this Convention and submit it to the appreciation of the Member States for adoption. Such a plan shall outline key activities that need to be implemented (such as Capacity Building, harmonization of national legislation, border control, public awareness raising, information exchange among National Commissions, strengthening the capacity of civil society, organisations, etc).
  3. Member States shall take the necessary measures to endow the ECOWAS Executive Secretariat with the institutional and operational capacities appropriate to the responsibilities given to the Executive Secretary by this Convention.

**Article 26**  
**Cooperation Within and Among States**

1. Member States undertake to promote intra-and inter-state cooperation in the implementation of this Convention. To this effect:
  - a) The ECOWAS Executive Secretary shall prepare procedures for interstate cooperation between security forces, the services in charge of border controls and all other services concerned, in the spirit of this Convention.
  - b) The ECOWAS Executive Secretary shall facilitate and seek assistance for the training of officials in intra- and interstate cooperation.

**Article 27**  
**Complaint Procedure Concerning Violation of this Convention**

1. All concerns relating to the violation of this Convention shall be brought to the attention of the ECOWAS Executive Secretary who would then submit such a complaint to the ECOWAS Mediation and Security Council;
2. If the ECOWAS Mediation and Security Council considers that there is a breach of the obligations under this Convention, it shall decide on the appropriate measures to be taken such as sanctions, inquiry, study or refer the matter to the ECOWAS Court of Justice;
3. This review procedure of complaints shall not mean the impossibility for a State or an individual to refer to the ECOWAS Court of Justice if it notes a failure in the application of this Convention.

**Article 28**  
**Monitoring the Implementation of this Convention**

1. In order to ensure the monitoring of and compliance with the provisions of this Convention, the Executive Secretary shall appoint a Group of Independent Experts who supports him. The Group of Independent Experts shall submit a report to the Executive Secretary.
2. Member States, upon the request of the Executive Secretary, shall provide the Group of Independent Experts with all information at their disposal on exemption request.

3. The Group of Independent Experts may seek any other information it shall deem useful for its work in relation with Member States and through cooperation with Member States of the Wassenaar Arrangements, the European Union and suppliers of arms.
4. Each Member State shall submit an annual report to the ECOWAS Executive Secretary on its activities related to small arms and light weapons as well as other matters in relation with this Convention, in accordance with the format of report developed by the Executive Secretary.
5. A Conference of all Parties to the Convention shall be convened by the Depositary as soon as possible after the entry into force of this Convention. The Conference of Heads of State and Government of member States shall review the implementation of this Convention.

## **CHAPTER VII GENERAL AND FINAL PROVISIONS**

### **Article 29 Interpretation and Dispute Settlement**

1. Any dispute arising out of the interpretation and/or the implementation of the Convention shall be settled by way of negotiation or by recourse to the ECOWAS Mediation and Security Council.
2. In the absence of a negotiated settlement, the dispute shall be brought before the ECOWAS Court of Justice.

### **Article 30 Special Provisions**

The undertakings ensuing from the provisions of this Convention shall not be interpreted as being in contradiction to the spirit and letter of the Conventions or Accords linking a Member State with a Third State as long as these Conventions and Accords are not in contradiction with the spirit and letter of this Convention.

### **Article 31 Sanctions**

Sanctions mentioned in Article 77 of the ECOWAS Revised Treaty are applicable to all Member States whom the ECOWAS Court of Justice would have found to be in violation of this Convention.

### **Article 32 Final Provisions**

- a) **Signature, Ratification, Accession and Entry into Force**

**b) Amendments**

1. Any amendment to this Convention proposed by a Member State shall be submitted to the ECOWAS Executive Secretary who shall notify the Member States.
2. Decision on adoption of such an amendment shall be taken by the Conference of Heads of State and Government by a two-thirds majority of the Member States.
3. An amendment so adopted shall enter into force for all Member States who are party to this Convention after receipt by the Depository of the instrument of ratification by the majority of Member States.

**c) Withdrawal**

1. Each Member State shall, in exercising its national sovereignty, have the right to withdraw from this Convention if it decides that extraordinary events related to the subject-matter of this Convention, have jeopardized its supreme interests.
2. Withdrawal shall be effected by a Member State giving notice, which includes a statement of the extraordinary events it regards as having jeopardized its supreme interest, twelve months in advance to the Depository. The Depository shall circulate such notice to all other Member States.
3. During the period of twelve months referred to in the preceding paragraph, such Member State shall nevertheless continue to observe the provisions of this Convention.

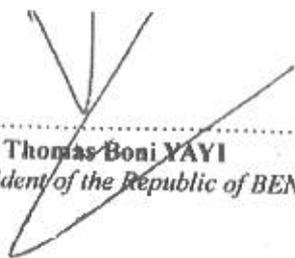
**d) Depository Authority**

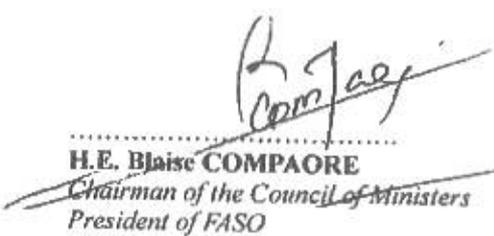
1. This Convention shall be deposited with the Executive Secretary of ECOWAS, who is hereby designated as the Depository of the Convention.
2. The Depository shall:
  - a) Receive instruments of ratification;
  - b) Register this Convention with the African Union, the United Nations, as well as any other organisation as may be decided by the ECOWAS Mediation and Security Council;
  - c) Transmit authentic copies of this Convention to all States in the ECOWAS region, and shall notify them of signatures and ratifications and accession of this Convention.

**IN FAITH WHEREOF, WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) HAVE SIGNED THIS CONVENTION IN THREE ORIGINALS**

**IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES,  
ALL TEXTS, BEING EQUALLY AUTHENTIC.**

**DONE AT ABUJA, ON 14TH DAY OF JUNE 2006**

  
.....  
**H.E. Thomas Boni YAYI**  
*President of the Republic of BENIN*

  
.....  
**H.E. Blaise COMPAORE**  
*Chairman of the Council of Ministers  
President of FASO*

.....  
*Republic of CAPE VERDE*

.....  
**H.E. ALIEU NGUM**  
*Minister of Trade, Industry and  
Employment, Representing the President  
Of the Republic of The GAMBIA*

.....  
**H.E. Fatoumata Kaba SIDIBE**  
*Minister for International Cooperation  
Representing the President of the Republic  
of GUINEA*

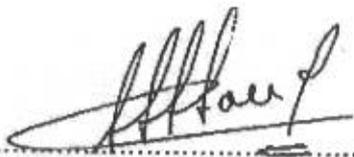
.....  
**H.E. ELLEN JOHNSON-SIRLEAF**  
*President of the Republic of LIBERIA*

.....  
**S.E. Dr. Albert Mabri Toikeusse**  
*Minister for African Integration  
Representing the President of the Republic  
of COTE D'IVOIRE*

.....  
**H.E. John Agyekum KUFUOR**  
*President of the Republic of GHANA*

.....  
**H.E. DE SOUSA RUI DIA**  
*Minister, Presidency of Council of  
Ministers on Social Communication &  
Affairs Representing the President of the  
Republic of GUINEE BISSAU*

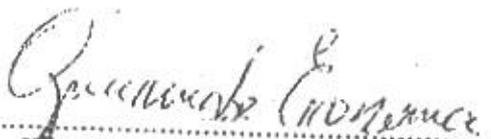
.....  
**H.E. Amadou Toumani TOURE**  
*President of the Republic of MALI*



**H.E. ABDOU AZIZ SOW**  
*Minister for NEPAD, Economic Integration  
In Africa & Good Governance Policy  
Representing the President of the Republic  
of SENEGAL*



**H.E. Alh. (Dr.) Ahmad Tejan KABBAH**  
*President of the Republic of  
SIERRA LEONE*



**H.E. Faure Essozimna GNASSINGBE**  
*President of the TOGOLESE Republic*

any  
KABBAH

CHAPTER FOUR

**SUPPLEMENTARY ACT A/SA.3/02/13  
ADOPTING THE ECOWAS STRATEGY FOR COMBATING  
TERRORISM AND ITS IMPLEMENTATION PLAN**

## THE HIGH CONTRACTING PARTIES,

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of Article 58 of the said Treaty relating to Regional Security;

MINDFUL of the 1999 Protocol, relating to the Mechanism for Conflict prevention, Management and Resolution, Peace and Security, emphasizing, among other things, the need to combat cross-border crimes such as money laundering;

CONSIDERING that terrorism poses a serious threat to international peace, security and stability and constitutes a criminal act that undermines efforts aimed at achieving democracy, good governance and development, as well as the full enjoyment of the human and peoples' rights;

CONSIDERING also that terrorist activities in the region during the last decade have demonstrated the gravity of the threat of terrorism in West Africa and the need to adopt strong and sustainable counter-measures to confront various acts, such as abductions and hostagetaking, hijacking, bomb attacks, etc, that many Member States experience;

CONSIDERING that in the light of the magnitude of these scourges, no Member State on its own can address the complex challenges posed by terrorism;

CONVINCED that the coordination and pooling of resources among the States are key to effectively eliminating the threat of terrorism, in particular the transnational or international ones involving several other countries;

DESIROUS of adopting both an ECOWAS strategy to combat terrorism and its implementation plan with a view to, coordinating and pooling efforts to fight terrorism in the ECOWAS region;

ON THE RECOMMENDATION of the meeting of the Technical Committee on Political Affairs, Peace and Security held from 11 to 13 October, 2011 in Bamako, Mali;

### AGREE AS FOLLOWS:

#### Article 1

This Supplementary Act hereby adopts the attached ECOWAS Strategy for combating terrorism, as well as its implementation plan.

#### Article 2

1. Member States shall ensure the establishment of an appropriate legislative framework for the effective implementation of the ECOWAS Strategy for combating terrorism, as well as its implementation plan.
2. Member States shall equally ensure not only closer cooperation in the fight against terrorism, but also build the capacities of the defence and security forces involved in the fight against terrorism.

#### Article 3

1. The ECOWAS Commission shall ensure the coordination of Member States' activities actions in the fight against terrorism.
2. It shall also ensure the establishment of a robust and proactive institutional framework to assist Member States in their efforts to prevent and fight against terrorism.

#### **Article 4**

This Supplementary Act shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature.

It shall also be published by each Member State in its Official Gazette within thirty (30) days after its notification by the Commission.

#### **Article 5**

1. This Supplementary Act shall enter into force upon its publication.

Consequently, Member States shall undertake to commence the implementation of its provisions upon its entry into force.

2. This Supplementary Act shall be annexed to the ECOWAS Treaty as an integral part.

#### **Article 6**

This Supplementary Act shall be deposited with the Commission which shall transmit certified true copies thereof to all Member States, and shall register it with the African Union, the United Nations and such other organisations cooperating with ECOWAS, as may be determined by Council, by virtue of Articles 83, 84 and 85 of the Revised Treaty.

**IN WITNESS WHEREOF WE,  
THE HEADS OF STATE AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST  
AFRICAN STATES, HAVE SIGNED THIS SUPPLEMENTARY ACT.**

**DONE AT YAMOUSSOUKRO, THIS 28TH DAY OF FEBRUARY, 2013**

**IN A SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES,  
ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC.**

---

**H. E. Sheikh Prof, Alhaji Dr.  
Yahya A.J.J. JAMMEH**  
President of the Republic of THE GAMBIA

---

**H.E. John Dramani MAHAMA**  
President of the Republic of GHANA

---

**H.E. Alpha CONDE**  
President of the Republic of  
GUINEA

---

**H.E. Manusi Serife NHAMADJO**  
Interim President of the  
Republic of GUINEA BISSAU

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**H.E. Mrs. Ellen JOHNSON-SIRLEAF**  
President of the Republic LIBERIA

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**H. E. Prof Dioncounda TRAORE**  
Interim President of the  
Republic of MALI

---

**H.E. Mahamadou ISSOUFOU**  
President of the Republic of NIGER

---

**H. E. Dr. Goodluck Ebele JONATHAN, GCFR**  
President, Commander-in-Chief,  
of the Armed Forces of the  
Federal Republic of NIGERIA,

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**H.E. Macky SALL**

President of the Republic of SENEGAL

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**H. E. Ernest Bai KOROMA**

President of the Republic of SIERRA LEONE

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**H.E. Faure Essozimna GNASSINGBE**  
President of the Togolese Republic.

## ECOWAS POLITICAL DECLARATION AND COMMON POSITION AGAINST TERRORISM

**We, the Heads of State and Government of the Economic Community of West African States (ECOWAS);**

REAFFIRMING our commitments to the Revised ECOWAS Treaty signed at Cotonou, Benin, on 24 July 1993, in particular, Article 58 of the Treaty, which enjoins Member States to work to safeguard and consolidate relations conducive to the maintenance of peace, stability and security within the Community;

CONSIDERING Article 3 (paragraph 4) of the Protocol A/P.1/12/99 Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, signed at Lome, Togo, on 10 December 1999; paragraph 40 of the ECOWAS Conflict Prevention Framework MSC/REG.1/01/08, signed at Ouagadougou, Burkina Faso, on 16 January 2008; and Article 24(2) of the Protocol A/SP.1/12/01 on Democracy and Good Governance Supplementary to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security signed at Dakar, Senegal, on 21 December 2001;

CONSIDERING measures undertaken by the Community in order to promote and consolidate cooperation among Member States on criminal matters, including inter alia, the ECOWAS Convention A/P.1/7/92 on Mutual Assistance in Penal Matters signed at Dakar, Senegal, on 29 July 1992; Convention A/P.1/8/94 on Extradition, signed at Abuja, Nigeria, on 6 August 1994; Protocol on Non-Aggression, signed in Lagos, Nigeria, on 22 August 1978, Protocol A/SP.3/5/81 on Mutual Assistance on Defense Matters, signed at Freetown, Sierra Leone, on 29 May 1981; Convention A/P.5/5/82 on Administrative Assistance on Customs Matters, signed at Cotonou, Benin, on 29 May 1982; Protocol A/P.1/01/06 on the Establishment of a Bureau of Intelligence and Investigation on Criminal Matters, signed at Niamey, Niger, on 12 January 2006; and the ECOWAS Convention on Small Arms and Light Weapons, Their Ammunitions and Other Related Materials, signed at Abuja, Nigeria, on 14 June 2006; as well as the Political Declaration on the Prevention of Drug Abuse, Illicit (Drug Trafficking and organized Crimes in West Africa;

CONSIDERING the OAU Convention on the Prevention and Combating of Terrorism, signed at Algiers, Algeria, on 14 July 1999, which, inter alia, provides a common African definition of terrorist acts, and its Protocol thereto, signed at Addis Ababa, Ethiopia, on 8 July 2004; and the African Union Plan of Action on the Prevention and Combating of Terrorism in Africa adopted at Algiers, Algeria, on 14 September 2002; as well as various decisions adopted by the African Union relating to the prevention and combating of terrorism in Africa;

GUIDED by the principles and regulations enshrined in the universal conventions and protocols and relevant resolutions of the United Nations (UN) on the prevention and combating of terrorism, in particular,

Signature  
AHAMA  
of GHANA

Signature  
AMADJO  
of the  
ISSAU

Signature  
TRAORE  
of the  
L

Signature  
NATHAN, GCFR  
Chief,  
of the  
NIGERIA,

SERIOUSLY CONCERNED at the recent manifestations of terrorist activities within the Community, notably, terrorist bombings, suicide attacks, kidnappings, hostage-taking, hijacking, mass murder, wanton assassinations, piracy and acts of sabotage of public and private properties, as well as the torching and desecration of religious and sacred places;

NOTING that these acts in the region have resulted in loss of innocent lives, serious injuries, damage to properties, and have spread awe and intimidation, as well as other far-reaching humanitarian ramifications on victim communities;

CONVINCED that a terrorist act in all its forms and manifestations constitutes the most serious and egregious crime that violates fundamental human rights including the rights to physical integrity, life, freedom from fear, liberty and security, and aggravates poverty through its debilitating effects on economic development and social cohesion;

CONCERNED at the risks of terrorists acquiring weapons of mass destruction including biological, chemical warfare agents and nuclear and other radioactive materials for the purpose of committing terrorist acts;

AWARE that terrorists exploit the cyberspace for the purpose of recruitment and spreading propaganda, as well as for the planning and executing terrorist acts, including the unlawful attacks or threats of attack against computers, networks, and other scientific and technological information systems; the intention of which is to intimidate, instill fear, or coerce a government, a private business or a segment of the population thereof for purpose of advancing political, ideological, or social objectives, whether directly or indirectly;

BEARING IN MIND the linkages between terrorism and other forms of criminality including trans-national organized crimes such as trafficking in drugs and human beings, arms smuggling and illicit proliferation of small arms and light weapons, corruption and money laundering;

SERIOUSLY CONCERNED at the recent manifestations of terrorist activities within the Community, notably, terrorist bombings, suicide attacks, kidnappings, hostage-taking, hijacking, mass murder, wanton assassinations, piracy and acts of sabotage of public and private properties, as well as the torching and desecration of religious and sacred places;

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BEARING IN MIND the linkages between terrorism and other forms of criminality including trans-national organized crimes such as trafficking in drugs and human beings, arms smuggling and illicit proliferation of small arms and light weapons, corruption and money laundering;

RECALLING our 25th Session which took place in Dakar in 2001 during which we strongly condemned all acts of terrorist attacks and called on Member States to ratify and domesticate all international instruments on the fight against terrorism and implement the provisions of the Dakar Declaration Against Terrorism.

**DETERMINED** to eliminate and stamp out the scourge of terrorism in the region and to create an enabling environment for effective regional integration, economic development, peace, security and stability in West Africa;

**STRESSING** that all activities undertaken to prevent and combat terrorism should be consistent with states obligations under international human rights and humanitarian law, including the United Nations International Covenant on Civil and Political Rights, signed at New York, on 16 December 1966;

**CONVINCED** that achieving this objective requires a resolute and firm commitment by Member States acting in close collaboration at all levels of inter-governmental actions on border surveillance, regular information sharing on both national and cross-border criminal networks, mutual assistance in criminal matters including investigation and prosecution of terrorist suspects, as well as in the seizure and freezing of terrorist assets and finances; and

**DESIROUS** of establishing a common framework for intergovernmental action and cooperation on practical matters of the prevention and combating of terrorism and to ensure synergies in states' actions at the national, regional and international levels.

**The Authority of Heads of State and Government**, hereby therefore, solemnly declare the following:

1. **UNEQUIVOCALLY CONDEMNNS** terrorism in all its forms and manifestations including acts of kidnapping, hijacking, hostage taking and the demand and payment of ransom, bombing of public and private properties and critical infrastructures, acts of sabotage and the desecration of religious and other cultural sacred places;
2. **EQUALLY CONDEMNNS** any movement, group or individuals using religion, ethnic or other social or cultural differences to incite or indulge in violence and other hostile activities resulting in death, injuries or damage to property, the intention of which is to intimidate or coerce a government, private business or segment of the population thereof for the purpose of achieving political or social objectives;
3. **DETERMINED** to take all necessary measures to bring to justice persons or entities that participate in the financing, planning, directing or perpetrating terrorist acts. To this end, Member States shall freeze or confiscate without delay funds and other financial assets or economic resources of persons, organizations or groups that knowingly recruit individuals for, encourage, facilitate, incite, finance, participate or act as an accomplice in the planning, financing and the commission of a terrorist act or any of its links mentioned above, whether directly or indirectly;
4. **REAFFIRMS** the commitment of Member States to refrain from encouraging, facilitating, financing or tolerating activities that are terrorist in nature or any complacency thereto; as well as to prevent Member States' territories from being used as safe havens for the training, planning, and execution of terrorist acts;
5. **CALLS ON** all Member States, particularly those that have not done so, to consider as a matter of extreme urgency the immediate ratification and/or accession to all the relevant ECOWAS

8. **ENCOURAGES** relevant civil society and non-governmental organizations including media to work in conjunction with Member States in order to coordinate and mutually reinforce their activities aimed at preventing and combating terrorism within the Community;
9. **REQUESTS** Member States to implement a zero-tolerance policy against terrorism within the Community. To this end, a terrorist threat to one Member State shall constitute a threat to the whole Community. In the application of this policy, Member States categorically reject any circumstances including economic, political, philosophical, ideological, racial, ethnic, religious, cultural, medical and health or other motives as justification for the commission of a terrorist act within or outside the Community and/or by a citizen of the Community;
10. **REAFFIRMS** the commitment of Member States to uphold international law and to streamline all activities undertaken within the framework of preventing and combating terrorism with the applicable international humanitarian and human rights law including the African Charter on Human and People's Rights and the Rights and Welfare of the Child; as well as the Universal Declaration on Human Rights, Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment; and the International Covenant on Civil and Political Rights. To this end, all Member States collectively Abhor torture and other degrading and inhumane treatment of terrorist suspects, and undertake to strengthen democratic practices and rule of law, to ensure due process, fair trial, and equality before the law for all citizens;
11. **DECIDES** to adopt the ECOWAS Counter-Terrorism Strategy and Implementation Plan, based on an integrated approach and which elaborates a comprehensive set of measures to be undertaken by various agencies in Member States, as well as provides a strategic policy direction towards the containment and elimination of the threat posed by terrorism to the Community. To this end, the Authority approves the establishment within the Community, as called for in the Strategy: a) an ECOWAS Counter-Terrorism Coordination Unit; b) an ECOWAS Arrest Warrant; c) an ECOWAS Black List of Terrorist and Criminal Networks, in order to facilitate coordination and information sharing among Member States;
12. **REQUESTS** the President of the Commission to submit to the next session of the Authority, detailed proposals on the operational modalities including budgetary implications and funding sources for the mechanisms mentioned in paragraph 11 above.
13. **FURTHER REQUESTS** the President of the Commission to submit to the Authority an annual report on the state of terrorism in West Africa including threats and vulnerabilities, as well as the measures taken by Member States and the Commission to implement this Declaration and the ECOWAS Strategy mentioned in paragraph 11 above;
14. **APPEALS** to the international community including technical assistance institutions, development partners, relevant international organizations and civil society groups to coordinate their activities with ECOWAS and to strengthen financial, material and technical support (including training, research and exchange of information) for the effective implementation of this Declaration and the Strategy mentioned therein; and
15. **DECIDES** to remain seized of the matter.

## Annex I

### ECOWAS Counter-Terrorism Strategy and Implementation Plan

## Annex II

United Nations and Universal counter-terrorism Instruments for which signature, ratification and/or accession of all ECOWAS Member States is recommended.

1. 1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft (entered into force: 4 December 1969).
2. 1970 Convention for the Suppression of Unlawful Seizure of Aircraft (entered into force: 14 October 1971); and the
3. 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (entered into force: 26 January 1973);
4. 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (entered into force: 20 February 1977);
5. 1979 International Convention against the Taking of Hostages (entered into force: 3 June 1983);
6. 1980 Convention on the Physical Protection of Nuclear Material (entered into force: 8 February 1987);
7. 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (entered into force : 1 March 1992);
8. 1988 Convention for the Suppression of Unlawful Acts against - the Safety of Maritime Navigation (entered into force : 1 March. 1992)
9. 1988 Protocol for the Suppression of Unlawful Acts at Violence at Airports Serving International Civil Aviation (entered into force:6 August 1989);
10. 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Aircraft Fixed Platforms Located on the Continental Shelf (entered into force : 1 March 1992);
11. 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection (entered into force: 21 June 1998) ;
12. 1997 International Convention for the Suppression of Terrorist Bombings (entered into force: 23 May 2001);
13. 1999 International Convention for the Suppression of the Financing of Terrorism (entered into force: 10 April 2002);
14. 2005 Protocol for the suppression of unlawful acts against the safety of fixed platforms located on the continental shelf (entered into Force: 28 July 2010);
15. 2005 International Convention for the Suppression of Acts of Nuclear Terrorism (entered into force: 7 August 2006);

### Annex III

Relevant African Union Counter-Terrorism Instruments for which signature and/or ratification is recommended for ECOWAS Member States

1. 2006 African Charter on Democracy, Elections and Governance (entered into force);
2. 2005 African Union Non-Aggression and Common Defence Pact (entered into force: 18 December 2009);
3. 2004 Protocol to the OAU Convention on Prevention and Combating of Terrorism (entered into force);
4. 2003 African Union Convention on Preventing and Combating Corruption (entered into force: 5 August 2006);
5. 2003 Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (entered into force: 25 November 2005);
6. 1995 African Nuclear-Weapons-Free-Zone Treaty (Treaty of Pelindaba) (entered into force: 15 July, 2009);
7. 1981 African Charter on Human and People's Rights (entered into force: 21 October 1986); and the
8. 1977 Convention for the Elimination of Mercenarism in Africa (entered into force: 22 April 1985).

### Annex IV

Relevant ECOWAS Instruments for the Prevention and Combating of Terrorism, for which ratification and/or accession is required for all ECOWAS Members States

1. 2006 Protocol A/P.1/01/06 Relating to the Establishment of an ECOWAS Bureau of Intelligence and Investigation on Criminal Matters;
2. 2006 ECOWAS Convention on Small Arms and Light Weapons, Their Ammunitions and Other Related Materials;
3. 2001 ECOWAS Protocol A/P3/12/01 on Fight Against Corruption;
4. 2001 Protocol A/SP.1/12/01 on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security;
5. 1999 Protocol A/AP.1/12/99 Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security;
6. 1994 ECOWAS Convention A/P.1/8/94 on Extradition;
7. 1992 ECOWAS Convention A/P.1/7/92 on Mutual Judicial Assistance in Criminal Matters;
8. 1982 Convention A/P5/5/82 on Mutual Administrative Assistance in Customs Matters; and the
9. 1981 Protocol A/SP3/5/81 on Mutual Assistance on Defence Matters;
10. 1978 Protocol on Non-Aggression;
11. 1977 Framework Agreement of the Protocol on Non-Aggression and Assistance in Defence Matters;
12. Agreement on Cooperation in criminal matters between Police forces of Mem African States. forces of Member States of the Economic Community of West African States.

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## PART II

### PROTOCOLS AND SUPPLEMENTARY ACTS ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS, EXTRADITION AND FIGHT AGAINST CORRUPTION

CHAPTER ONE

**CONVENTION A/P.1/7/92  
ON MUTUAL ASSISTANCE IN CRIMINAL MATTERS**

**THE GOVERNMENTS OF THE MEMBER STATES OF  
THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES**

CONSIDERING that the main objective of the Community is to achieve integration in all fields of activity of its Member States;

BELIEVING that the adoption of common rules in the field of mutual assistance in criminal matters will contribute to this aim by furthering the development of integration;

DESIROUS of extending to each other the widest mutual legal assistance to combat offences of all kinds particularly of serious crimes, as an effective way of dealing with the complex aspects and serious consequences of criminality in all its forms and new dimensions;

AWARE of the interest in the proper administration of justice while conscious of the need to respect human dignity and to assure the orderly pursuit of criminal proceedings among the Member States, thus reinforcing mutual assistance in criminal matters;

**Have agreed as follows:**

**ARTICLE 1**

For the purpose of this Convention, the following definitions shall apply:

**"Treaty"** means the Treaty of the Economic Community of West African States;

**"Community"** means the Economic Community of West African States, created by Article 1 of the Treaty;

**"Member State" or "Member States"** means a Member State or Member States of the Community;

**"Requesting Member State"** means a Member State which has made a request for assistance under this Convention;

**"Requested Member State"** means a Member State to which a request for assistance under this Convention has been made;

**"Authority"** means the Authority of Heads of State and Government of the Community, created by Article 5 of the Treaty;

**"Council"** means the Council of Ministers of the Community created by Article 6 of the Treaty;

**"Competent Authority"** means the Minister of Justice of a Member State;

**"Executive Secretariat"** means the Executive Secretariat of the Community created by Article 8, paragraph 1 of the Treaty;

**"Executive Secretary"** means the Executive Secretary of the Community, appointed by virtue of Article 8, paragraph 2 of the Treaty;

**"Offence" or "Offences"** means the fact or facts which constitute a criminal offence or criminal offences under the laws of the Member State;

**"Sanctions"** means all penalties or measures incurred or pronounced as a result of a criminal offence;

**"Proceeds of crime"** means any property suspected, or found by a court, to be property directly or indirectly derived or realized as a result of the commission of an offence or to represent the value of property and other benefits from the commission of an offence.

## CHAPTER II MUTUAL ASSISTANCE

### Article 2 Scope of Application

1. Member States undertake to afford to each other, in accordance with the provisions of this Convention, the widest measure of mutual assistance in proceedings or investigations in respect of offences the punishments of which, at the time of the request for assistance, falls within the jurisdiction of the judicial authorities of the requesting Member State.
2. Mutual assistance in the provisions of this Convention applies to:
  - (a) taking evidence or statements from persons;
  - (b) assisting in assuring the availability of detained persons or others to give evidence or assist in investigations;
  - (c) effecting service of judicial documents;
  - (d) executing searches and seizures;
  - (e) forfeitures and confiscations of the proceeds of crime;
  - (f) examining objects and sites;
  - (g) providing information and evidentiary items;
  - (h) providing originals or certified copies of relevant documents and records, including bank, financial, corporate or business records.
3. The Convention does not apply to:
  - (a) the arrest or detention of any person with a view to the extradition of that person;
  - (b) the enforcement in the requested Member State of criminal judgments imposed in the requesting Member State except to the extent permitted by the laws of the requested Member State;

- (d) the request relates to an offence that is subject to investigation or prosecution in the requested Member State or the prosecution of which in the requesting Member State would be incompatible with the requested Member State's law on double jeopardy;
  - (e) the assistance requested requires the requested Member State to carry out compulsory measures that would be contrary to its laws and practice had the offence been the subject of investigation or prosecution under its own jurisdiction;
  - (f) the request is in respect of offences related to military law which do not constitute offences under ordinary criminal law.
2. Assistance shall not be refused solely on the grounds of secrecy of banks and of similar financial institutions.
  3. The requested Member State may postpone the execution of the request if its immediate execution would interfere with an ongoing investigation or prosecution in the territory of the requested Member State.
  4. Before refusing a request or postponing its execution, the requested Member State shall consider whether assistance may be granted subject to certain conditions. If the requested Member State accepts assistance subject to these conditions, it shall comply with them.
  5. Reasons shall be given for any refusal or postponement of mutual assistance.

#### **Article 5 Contents of Requests**

1. Request for assistance shall be made in writing and shall include:
  - (a) the name of the competent authority coordinating the investigation or court proceedings to which the request relates;
  - (b) the purpose of the request and a brief description of the assistance sought;
  - (c) a description of the facts alleged to constitute the offence and a statement or text of the relevant laws, except in cases of a request for service of documents;
  - (d) the identity, nationality and address of the person to be served, where necessary;
  - (e) the reasons for and details of any particular procedure or requirements that the requesting Member State wishes to be followed, including a statement as to whether sworn or affirmed evidence or statements are required;
  - (f) specifications of any time-limit within which compliance with the request is desired;
  - (g) such other information as is necessary for the proper execution of the request.
2. Requests, supporting documents and other communications made pursuant to this Convention shall be written in one or the other of the official languages of the Community or in another language acceptable to the requested Member State.
3. If the requested Member State considers that the information contained in the request is not sufficient to enable the request to be dealt with, it may request additional information.

#### **Article 6 Execution of Requests**

1. Requests for assistance shall be carried out promptly, in the manner provided for by the laws and practice of the requested Member State. To the extent consistent with its laws and practice, the requested Member State shall carry out the request in the manner specified by the requesting Member State.

- 2 At the request of the requesting Member State the requested Member State shall state the date and place of execution of the demand. Officials and interested persons may be present if the requested Member State consents.

#### **Article 7**

#### **Return of Material to the Requested State**

Any property, as well as original records or documents, handed over to the requesting Member State under this Convention shall be returned to the requested Member State as soon as possible unless the latter waives its right of return thereof.

#### **Article 8**

#### **Limitation on Use**

The requesting Member State shall not, without the consent of the requested Member State use or transfer information of evidence provided by the requested Member State for investigation or proceedings other than those stated in the request. However, in cases where the charge is altered, the material provided may be used in so far as the offence, as charged is an offence in respect of which mutual assistance may be provided under this Convention.

#### **Article 9**

#### **Protection of Confidentiality**

Upon Request:

- (a) the requested Member State shall do its utmost to keep confidential the request for assistance, its contents and supporting documents as well as the fact of granting such assistance. If the request cannot be executed without breaching confidentiality, the requested Member State shall so inform the requesting Member State which shall then determine whether the request should be executed notwithstanding;
- (b) the requesting Member State shall keep confidential evidence and information provided by the requested Member State, except to the extent that such evidence and information is needed for the investigation and proceedings described in the request.

#### **Article 10**

**Article 11**  
**Obtaining of Evidence**

1. The requested Member State shall, in conformity with its laws and upon request take the sworn or affirmed testimony or otherwise obtain statements of persons or require them to provide items of evidence for transmission to the requesting Member State.
2. Upon request of the requesting Member State, the parties to the relevant proceedings in the requesting Member State, their legal representatives and representatives of the requesting Member State may, subject to the laws and procedures of the requested Member State, be present at the proceedings.

**Article 12**  
**Right or Obligation to Decline to Give Evidence**

1. A person who is requested to give evidence may decline where either:
  - (a) the laws of the requested Member State permit or require that person to decline to give evidence in similar circumstances in proceedings originating in the requested Member State; or
  - (b) that laws of the requesting Member State permit or require that person to decline to give evidence in similar circumstances in proceedings originating in the requesting Member State.
2. If a person claims that there is a right or obligation to decline to give evidence under the laws of the other Member State, the Member State where that person is present shall, with respect thereto, rely on a certificate of a competent authority of the other Member State as evidence of the existence or non-existence of that right or obligation.

**Article 13**  
**Availability of Persons in Custody to Give Evidence or to Assist In Investigations**

1. At the request of the requesting Member State, and if the requested Member State agrees and its laws so permit, a person in custody in the territory of the requested Member State may, subject to his or her consent, be temporarily transferred to the territory of the requesting Member State to give evidence or to assist in the investigations.
2. While the person transferred is required to be held in custody under the laws of the requested Member State, the requesting Member State shall hold that person in custody and shall return that person in custody to the requested Member State at the conclusion of the matter in relation to which transfer was sought or at such earlier time as the person's presence is no longer required.
3. Where the requested Member State advises the requesting Member State that the transferred person is no longer required to be held in custody, that person shall be set at liberty and be dealt with in accordance with Article 14 of this Convention.

**Article 14**  
**Availability of Other Persons to Give Evidence or Assist in Investigations**

1. The requesting Member State may request the assistance of the requested Member State in inviting a person:
  - (a) to appear in proceedings in relation to a criminal matter in the requesting Member State unless that person is the person charged; or
  - (b) to assist in the investigations in relation to a criminal matter in the requesting Member

State.

2. The requested Member State shall invite the person to appear as a witness or expert in proceedings or to assist in the investigations. Where appropriate, the requested Member State shall satisfy itself that necessary measures have been taken for the person's safety.
3. The request of the summons shall indicate the approximate allowances and the travel and subsistence expenses payable by the requesting Member State. This amount shall be determined by the two Member States concerned.
4. Upon request, the requested Member State may grant the person an advance, which shall be refunded by the requesting Member State.

#### **Article 15 Safe Conduct**

1. Subject to paragraph 2 of this Article, where a person is in the requesting Member State pursuant to a request made under Article 13 or 14:
  - (a) that person shall not be detained, prosecuted, punished or subjected to any other restrictions of personal liberty in the requesting Member State in respect of any acts or omissions or convictions that preceded the person's departure from the requested Member State.
  - (b) that person shall not, without that person's consent, be required to give evidence in any proceedings or to assist in any investigation other than the proceeding or investigation to which the request relates.
2. Paragraph 1 of this Article shall cease to apply if that person, being free to leave, has not left the territory of the requesting Member State within a period of 15 consecutive days, or any longer period otherwise agreed on by the Member States, after that person has been officially told or notified that his or her presence is no longer required or, having left, has voluntarily returned.
3. A person who does not consent to a request pursuant to Article 13 or accept an invitation pursuant to Article 14 shall not, even if summons contains a notice of penalty, be subjected to any punishment or measure or restraint, unless subsequently he voluntarily enters the territory of the requested Member State and is there again duly summoned.

**CHAPTER III  
FORFEITURE OR CONFISCATION OF PROCEEDS OF CRIMES**

**Article 18  
Request for Forfeiture or Confiscation**

The requested Member State shall, upon request, endeavour to ascertain whether any proceeds of the crime alleged are located within its jurisdiction and shall notify the requesting Member State of the results of its enquiries. In making the request, the requesting Member State shall notify the requested Member State of the basis of its belief that such proceeds of crime may be located within its jurisdiction.

**Article 19  
Investigations for Forfeiture or Confiscation**

1. In pursuance of a request made under Article 18, of this Convention, the requested Member State shall endeavour to trace assets, investigate financial dealings, and obtain other information or evidence that may help to secure the recovery of proceeds of crime.
2. Where, pursuant to Article 18 of this Convention suspected proceeds of crime are found, the requested Member State shall upon request take such measures as are permitted by its laws to prevent any dealing in, transfer or disposal of, those suspected proceeds of crime, pending a final determination in respect of those proceeds by a court of the requesting Member State.

**Article 20  
Effects of the Decision on Forfeiture or Confiscation**

1. The requested Member State shall, to the extent permitted by its laws, give effect to or permit enforcement of a final order forfeiting or confiscating the proceeds of crime made by a court of the requesting Member State or take other appropriate action to secure the proceeds following a request by the requesting Member State.
2. The Member States shall ensure that the rights of bona fide third parties and victims shall be respected.

**CHAPTER IV  
TRANSFER OF PROCEEDINGS IN CRIMINAL MATTERS**

**Article 21  
Scope of Application**

1. When a person is suspected of having committed an offence under the laws of a State, that State may, if the interests of the proper administration of justice so require, request another Member State to take proceedings in respect of this offence.
2. For the purposes of applying this Convention, the Member States shall take the necessary legislative measures to ensure that a request of the requesting Member State to take proceedings shall allow the requested Member State to exercise the necessary jurisdiction.

**Article 22  
Channel of Communication**

The request, supporting documents and subsequent communications shall be transmitted to the competent authority in conformity with the provisions of Article 3 of this Convention.

**Article 23**  
**Contents of Requests**

1. The request to take proceedings shall be made in writing and shall contain or be accompanied by documents containing the following information:
  - (a) the authority presenting the request;
  - (b) a description of the act for which transfer of proceedings is being requested, including the specific time and place of the offence;
  - (c) a statement on the results of investigations which substantiate the suspicion of an offence;
  - (d) the legal provisions of the requesting Member State on the basis of which the act is considered to be an offence;
  - (e) a reasonably exact statement of the identity, nationality and residence of the suspected person.
2. Request, supporting documents and other communications made pursuant to this Convention shall be written in one or the other of the official languages of the Community or in another language acceptable to the requested Member State.
3. If the requested Member State considers that the information contained in the request is not sufficient to enable the request to be dealt with, it may request additional information.

**Article 24**  
**Decision on the Request**

The competent authorities of the requested Member State shall examine what actions to take on the request to take proceedings in order to comply, as fully as possible, with the request under their own laws, and shall promptly communicate their decision to the requesting Member State.

**Article 25**  
**Dual Criminality**

A request to take proceedings can be complied with if only the act on which the request is based would be an offence if committed in the territory of the requested Member State.

**Article 26**  
**Grounds for Refusal**

If the requested Member State refuses acceptance of a request for transfer of proceedings it shall communicate the reasons for refusal to the requesting Member State. Acceptance may be refused if:

- (a) the suspected person is not a national of or ordinary resident of the requested Member State;
- (b) the act is an offence under military law, which is not also an offence under ordinary criminal law;
- (c) the offence is regarded by the requested Member State as being of a political nature.

**Article 27**  
**The Position of the Suspected Person**

1. The suspected person may express to either Member State his or her interest in the transfer of the proceedings. Similarly, such interest may be expressed by the legal representative or close relatives of the suspected person.
2. Before a request for transfer of proceedings is made, the requesting Member State shall, if practicable, allow the suspected person to present his or her view on the alleged offence and the intended transfer, unless that person has absconded or otherwise obstructed the course of justice.

**Article 28**  
**The Rights of the Victim**

1. The requesting Member State and the requested Member State shall ensure in the transfer of proceedings that the rights of the victim of the offence, in particular his or her right to restitution or compensation, shall not be affected as a result of the transfer, if a settlement of the claim of the victim has not been reached before the transfer, the requested Member State shall permit the representation of the claim in the transferred proceedings, if its laws provide for such a possibility. In the event of the death of the victim, these provisions shall apply to his or her dependents accordingly.

**Article 29**  
**Effects of the Transfer of Proceedings on the Requesting Member State**  
**(*non bis in idem*)**

Upon acceptance by the requested Member State of the request to take proceedings against the suspected person, the requesting Member State shall provisionally discontinue prosecution, except necessary investigation, including judicial assistance to the requested Party, until the requested Member State informs the requesting Member State that the case has been finally disposed of. From that date on, the requesting Member State shall definitely refrain from further prosecution of the same offence.

**Article 30**  
**Effects of the Transfer of Proceedings on the Requested Member State**

1. The proceedings transferred upon agreement shall be governed by the laws of the requested Member State. When charging the suspected person under its laws, the requested Member State shall make necessary adjustment with respect to particular elements in the legal description of the offence. Where the competence of the requested Member State is based on the provision set forth in paragraph 2 of Article 23, the sanction pronounced in that Member State shall not be more severe than that provided by the laws of the requesting Member State.
2. As far as compatible with the laws of the requested Member State, any act with a view to proceedings or procedural requirements performed in the requesting Member State in accordance with its law shall have the same validity in the requested Member State as if the act had been performed in or by the authorities of that Member State.
3. The requested Member State shall inform the requesting Member State of the decision taken as a result of the proceedings. To this end a copy of the final decision shall be transmitted to the requesting Member State.

**Article 31**  
**Provisional Measures**

When the requesting Member State announces its intention to transmit a request for transfer of proceedings, the requested Member State may, upon a specific request made for this purpose by the requesting Member State, apply all such provisional measures, including provisional detention and seizure, as could be applied under its laws if the offence in respect of which transfer of proceedings is requested had been committed in its territory.

**Article 32**  
**The Plurality of Criminal Proceedings**

When criminal proceedings are pending in two or more Member States against the same suspected person in respect of the same offence, the Member States concerned shall consult to decide which of them alone should continue proceedings. An agreement reached thereupon shall have the consequences of a request for transfer of proceedings.

**CHAPTER V**  
**VALIDATION AND COSTS**

**Article 33**  
**Authentication and Certification of Documents**

A request under this Convention and the supporting documents thereto, as well as the documents and other materials supplied in response to such a request shall not require certification or authentication.

**Article 34**  
**Costs of Executing Requests**

The ordinary costs of executing a request shall be borne by the requested Member State, unless otherwise determined by the Parties. If expenses of a substantial or extraordinary nature are or will be required to execute the request, the Parties shall consult in advance to determine the terms and conditions under which the request shall be executed, as well as the manner in which the costs shall be borne.

2. When a non-Member State of the Community requests to be invited to accede to this Convention, it shall submit this request to the Executive Secretary.
3. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Executive Secretary.

**Article 37**  
**Amendment and Review**

1. Any Member State may submit proposals for the amendment or review of this Convention.
2. All proposals shall be submitted to the Executive Secretary, who shall forward them to Member States within thirty (30) days upon receipt. Proposed amendments or reviews shall be considered by the Authority upon expiration of the thirty (30) days notice given to Member States.

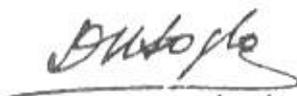
**Article 38**  
**Deposit and Entry Into Force**

1. This Convention shall enter into force provisionally upon signature by Heads of State and Government of Member States and definitively upon ratification by at least seven (7) Member States, in conformity with the constitutional provisions of each Member State.
2. This Convention and all the instruments of ratification shall be deposited with the Executive Secretariat which shall forward certified true copies to all Member States, notify them of the dates of deposit of the instruments of ratification and register this Convention with the Organisation of African Unity, the United Nations and any other organisation determined by Council.

**IN WITNESS WHEREOF, WE THE HEADS OF STATE AND GOVERNMENT  
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES HAVE SIGNED  
THIS CONVENTION.**

**DONE AT DAKAR, THIS 29TH DAY OF JULY, 1992**

**IN A SINGLE ORIGINAL IN THE ENGLISH AND FRENCH LANGUAGES,  
BOTH TEXTS BEING EQUALLY AUTHENTIC.**



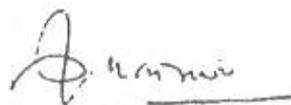
**H.E. Mr. Nicephore Dierdone SOGLO**  
President of People's Republic of BENIN



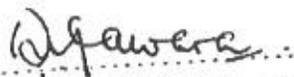
**H.E. Blaise COMPAORE**  
President of FASO, Head of Government  
BURKINA FASO



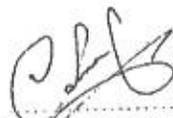
**H.E. Carlos Wahanon de Carvalho VIEGA**  
Prime Minister and Minister of Defence  
for and on behalf of the President of the  
Republic of CAPE VERDE



**Lt. General Arnold QUAINOO**  
Member of the Provisional National Defence  
Council (PNDC) of the Republic of Ghana,  
for and on behalf of the Head of State of the  
Republic of GHANA



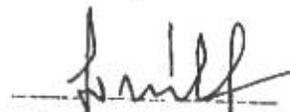
**H.E. Alhaji Sir Dauda K. JAWARA**  
President of the Republic of THE GAMBIA



**H.E. General Lasanna CONTE**  
Head of State, President of the  
Republic of GUINEA



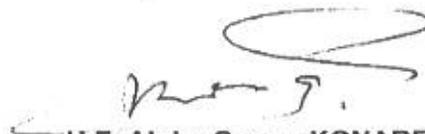
**H.E. Dr. Amos Claudius SAWYER**  
President of the Interim Government  
of LIBERIA



**Honourable Luis SANCA**  
Minister of Trade and Tourism for and on  
behalf of the President of the Council of State  
of the Republic of GUINEA BISSAU



**Hon. Ahmed Ould ZEIN**  
Minister, Secretary General in the office of the  
President, for and on behalf of the Head of  
State of the Islamic Republic of MUARITANIA



**H.E. Alpha Oumar KONARE**  
President of the Republic of MALI



**H.E. Felix Houphouet BOIGNY**  
President of the Republic of COTE D'IVOIRE

**Honourable Amadou CHEIFOU**  
Prime Minister, for and on behalf of the Head  
of Government of the Republic of NIGER





CHAPTER TWO

**CONVENTION A/P.1/8/94  
ON EXTRADITION**

## PREAMBLE

**THE GOVERNMENTS OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES;**

CONSIDERING that speedy integration between Member States in every area of activity can best be achieved by seeking to create and sustain within the Community, such conditions as shall eliminate any threat to the security of their peoples;

CONVINCED that security can best be maintained if offenders are denied shelter from legal proceedings or penalties;

DESIROUS of working together to curb crime throughout the territory of the Community;

DETERMINED therefore to endow national courts of law with an effective instrument for the arrest, judgment and enforcement of penalties against offenders fleeing the territory of one Member State to seek shelter in the territory of another;

**HEREBY AGREE AS FOLLOWS:**

### **ARTICLE 1 DEFINITIONS**

For the purpose of this Convention, the following definitions shall apply;

**"Community"** means the Economic Community of West African States, referred to under Article 2 of the Treaty;

**"Executive Secretary"** means the Executive Secretary of the Community, appointed under Article 18 paragraph 1 of the Treaty;

**"Member State" or "Member States"** means a Member State or Member States of the Community;

**"Non-Member State" or "Non-Member States"** means a State or States not a member of the Community which has acceded to this Convention;

**"Offence" or "Offences"** means the fact or facts which constitute a criminal offence or criminal offences under the laws of the Member States;

**"Requested State"** means a State to which a request for extradition under this Convention has been made;

**"Requesting State"** means a State which has made a request for extradition under this Convention;

**"Sentence"** means all penalties or measures incurred or pronounced as a result of a criminal offence and includes a sentence of imprisonment;

**"Treaty"** means the Revised Treaty of the Economic Community of West African States signed in Cotonou on 24 July, 1993;

### **Article 2 Principles of Extradition**

1. States undertake to surrender to each other, subject to the provisions and conditions laid down in this Convention, all persons within the territory of the requested State who are wanted for prosecution for an offence or who are wanted by the legal authorities of the requesting State for the carrying out of a sentence.

2. In the case of a minor aged under 18 at the time of the request for extradition, the competent authorities of the requesting and requested States shall take into consideration the interests of the minor and, where they think that extradition is likely to impair social rehabilitation, shall endeavour to reach an agreement on the most appropriate measures.

### **Article 3**

#### **Conditions for Extradition**

1. Extradition shall be granted under certain circumstances in respect of offences punishable under the laws of the requesting State and of the requested State by deprivation of liberty for a minimum period of two years. Where there has been a conviction and a prison sentence has been imposed in the territory of the requesting State, extradition shall be granted only if a period of at least 6 months remains to be served.
2. If the request for extradition includes several separate offences each of which is punishable under the laws of the requesting State and the requested State by deprivation of liberty but of which some do not meet the penalty requirements set out in paragraph 1 of this Article the requested State shall have the right to grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.

### **Article 4**

#### **Political Offences**

1. Extradition shall not be granted if the offence in respect of which is requested is regarded as a political offence or as an offence connected with a political offence.
2. The same rule shall apply if there are substantial grounds for believing that a request for extradition for an ordinary criminal offence has been made for the purpose of prosecuting or punishing a person on account of race, tribe, religion, nationality, political opinion, sex, or status.
3. Implementation of this Article shall not affect any prior or future obligations assumed by States under the provisions of the Geneva Convention of 12 August, 1949 and its additional Protocols and other multilateral International Conventions.

### **Article 5**

**Article 8**  
**Ad Hoc Court or Tribunal**

Extradition may be refused if the person whose extradition is requested has been sentenced, or would be liable to be tried, in the requesting State by an extraordinary or ad hoc court or tribunal.

**Article 9**  
**Fiscal Offences**

For offences in connection with taxes, duties and customs extradition shall take place between the States in accordance with the provisions of this Convention if the offence under the law of the requested State, corresponds to an offence of the same nature even if the law of that State does not contain the same type of tax, duty or custom regulation.

**Article 10**  
**Nationals**

1. Extradition of a national of the requested State shall be a matter of discretion for that State. Nationality shall be determined at the time of the offence for which extradition is being requested.
2. The requested State which does not extradite its nationals, shall at the request of the requesting State submit the case to its competent authorities in order that proceedings may be taken if they are considered appropriate. For this purpose, the files, information and exhibits relating to the offence shall be transmitted, without charge, through the diplomatic channel or by such other means as shall be agreed upon by the States concerned. The requesting State shall be informed of the result of its request.

**Article 11**  
**Place of Commission**

1. The requested State may refuse to extradite a person claimed for an offence which is regarded by its law as having been committed in whole or in part in its territory or in a place treated as its territory.

2. If new proceedings are instituted by the requesting State against the person in respect of whom the requested State has terminated proceedings for the offence for which extradition was granted, any period passed in remand or in custody in the requested State shall be taken into consideration when deciding the penalty involving deprivation of liberty in the requesting State.

#### **Article 14 Judgement in Absentia**

1. When a request is made for the extradition of a person for the purpose of carrying out a sentence imposed by a decision rendered in absentia, the requested State may refuse to extradite if, in its opinion, the proceeding leading to the judgement did not satisfy the minimum rights of defence recognised as due to every one charged with criminal offence. However, extradition shall be granted if the requesting state gives an assurance considered sufficient to guarantee to the person claimed the right to a re-trial which safeguards the rights of defence. This decision will authorize the requesting State either to enforce the judgement in question if the convicted person does not make an opposition or, if he does, to take proceedings against the person extradited.
2. When the requested State informs the person whose extradition has been requested of the judgement rendered against him in absentia the requesting State shall no regard this communication as a formal notification for the purpose of the criminal procedure in that State.

#### **Article 15 Lapse of Time**

1. Extradition shall not be granted when the person claimed has, according to the law of either the requesting or the requested State become immune by reason of lapse of time from prosecution or punishment at the time of receipt of the request for extradition by the requested State.
2. When determining whether, according to the law of the requested State the person claimed has become immune by reason of lapse of time from prosecution or punishment, the competent authority of the said State shall take into consideration any acts of interruption and any events suspending time limitation occurring in the requesting State in so far as acts or events of the same nature have an identical effect in the requested State.

2. The request shall be supported by:
  - (a) the original or an authenticated copy of the conviction and sentence immediately enforceable or of the warrant of arrest or other order having the same effect and issued in accordance with the procedure laid down in the law of the requesting State;
  - (b) a statement of the offences for which extradition is requested. The time and place of their commission; their legal descriptions; and a reference to the relevant legal provision shall be set out as accurately as possible; and
  - (c) an authenticated copy of the relevant law indicating the sentence which may be or has been imposed for the offence and as accurate a description as possible of the person claimed together with any other information which will help to established his identity, nationality and whereabouts.

#### **Article 19 Supplementary Information**

If the information communicated by the requesting State is found to be insufficient to allow the requested State to make a decision in pursuant of this Convention the later State shall request the necessary supplementary information and may fix a reasonable time-limit for the receipt thereof.

#### **Article 20 Rule of Specialty**

1. A person who has been extradited shall not be proceeded against, sentenced or detained with a view to the carrying out of a sentence for any offence committed prior to his surrender other than that for which he was extradited nor shall he be for any other reason restricted in his personal freedom except in the following cases:
  - (a) When the State which surrendered him consents. A request for consent shall be submitted, accompanied by the documents mentioned in Article 18 and a legal record of any statement made by the extradited person in respect of the offence concerned. Consent shall be given when the offence for which it is requested is itself subject to extradition in accordance with the provision of this Convention.
  - (b) When that person having had an opportunity to leave the territory of the State to which he has been surrendered, has not done so within 45 days of his final discharge, or has returned to that territory after leaving it.
2. When the description of the offence charged is altered in the course of proceedings; the extradited person shall only be proceeded against or sentenced in so far as the offence under its new description is shown by its constituent elements to be an offence which would allow extradition.

#### **Article 21 Re-extradition to a Third State**

Except as provided in Article 20, Paragraph 1 (b), the requesting State shall not without the consent of the requested State surrender to another State or to a third State a person surrendered to a requesting State and sought by the said other State or third State in respect of offences committed before his surrender. The requested State may request the production of the documents mentioned in Article 18.

## **Article 22 Provisional Arrest**

1. In case of urgency, the competent authorities of the requesting State may request the provisional arrest of the person sought. The competent authorities of the requested State shall decide the matter in accordance with its law pending the request for extradition.
2. The request for provisional arrest shall state that one of the documents mentioned in Article 18 Paragraph 2 (a) exists and that it is intended to send a request for extradition. It shall also state for what offence extradition will be requested, when and where such offence was committed, the penalty incurred or provided for or the sentence pronounced. The request shall also, if possible, indicate the whereabouts of the person sought and as far as possible provide the description of the person.
3. A request for provisional arrest shall be sent to the competent authorities of the requested State either through the diplomatic channel or direct by post or telegraph or through the international Criminal Police Organisation (Interpol) or by any other means affording evidence in writing or accepted by the requested State. The requesting State shall be informed without delay of the result of its request.
4. Provisional arrest may be terminated if, within a period of twenty (20) days after arrest, the requested State has not received a request for extradition and the documents mentioned in Article 18. The possibility of provisional release at anytime is not excluded but the requested State shall take any measure which it considers necessary to prevent the escape of the person sought.
5. Release shall not prejudice re-arrest and extradition, if a request for extradition is received subsequently.
6. The time spent in detention by an individual solely for the purpose of the extradition in the territory of the requested States or of a State of transit shall be taken into consideration when deciding the penalty involving deprivation of liberty or detention which he has to serve for the offence for which he was extradited.

## **Article 23 Conflicting Requests**

If extradition is requested concurrently by more than one State either for the same offence or for different offences, the requested State shall make its decision having regard to all the circumstances and especially the relative seriousness and place of commission of the offences, the respective dates of the requests, the nationality of the person claimed and the possibility of subsequent extradition to another State.

## **Article 24 Surrender of the Person to be Extradited**

1. The requested State shall inform the requesting State by the means mentioned in Article 18 paragraph 1 of its decision with regard to the extradition.
2. Reasons shall be given for any complete or partial rejection.
3. If the request is agreed to the requesting State shall be informed of the place and date of surrender and of the length of time for which the person claimed was detained with a view to surrender.
4. Subject to the provisions of paragraph 5 of this Article, if the person claimed has not been removed on the appointed date, he may be released after the expiry of 30 days. The requested State may refuse to extradite him for the same offence.

5. If circumstances beyond its control prevent a State from surrendering or taking over the person to be extradited, it shall notify the other State. The two States shall agree on a new date for surrender and the provisions of paragraph 4 of this Article shall apply.

**Article 25**  
**Postponed or Conditional Surrender**

1. The requested State may, after making its decision on the request for extradition, postpone the surrender of the person claimed in order that he may be proceeded against or, if he has already been convicted, in order that he may serve his sentence in the territory of that State for an offence other than that for which extradition is requested.
2. The requested State may, instead of postponing surrender, temporarily surrender the person claimed to the requesting State in accordance with conditions to be determined by mutual agreement between the States.

**Article 26**  
**Handing over of Property**

1. The requested State shall, in so far as its law permits and at the request of the requesting State, seize and hand over property:
  - (a) which may be required as evidence or
  - (b) which has been acquired as a result of the offence and which, at the time of the arrest, is found in the possession of the person claimed or is discovered subsequently.
2. The property mentioned in paragraph 1 of this Article shall be handed over even if extradition, having been agreed to cannot be carried out owing to the death or escape of the person claimed.
3. When the said property is liable to seizure or confiscation in the territory of the requested State, the latter may, in connection with pending criminal proceedings, temporarily retain it or hand it over on condition that it is returned.
4. Any rights which the requested State or bona fide third parties may have acquired in the said property shall be preserved. Where these rights exist the property shall be returned without charge to the requested State as soon as possible after the trial.

**Article 27**  
**Transit**

1. Transit through the territory of one of the States shall be granted on submission of a request by the means mentioned in Article 18 paragraph 1, provided that the offence concerned is not considered by the State requested to grant transit as an offence of a political or military character having regard to Articles 4 and 7 of this Convention.
2. Transit of a national of the country requested to grant transit may be refused.
3. Subject to the provisions of paragraph 4 of this Article, it shall be necessary to produce the documents mentioned in Article 18 paragraph 2.
4. If air transport is used, the following provisions shall apply:
  - (a) when it is not intended to land, the requesting State shall notify the State over whose territory the flight is to be made and shall certify that one of the documents mentioned in Article 18 paragraph 2 (a) exists. In the case of an unscheduled landing, such notification shall have the effect of a request for provisional arrest as provided for in Article 22 and the requesting State shall submit a formal request for transit;

- (b) When it is intended to land, the requesting State shall submit a formal request for transit.
5. A State may, however, at the time of signature or of the deposit of its instrument of ratification of this Convention, declare that it will only grant transit of persons on some or all of the conditions on which it grants extradition. In that event, reciprocity may be applied.
  6. Transit of the extradited person shall not be carried out through any territory where there is a reason to believe that his life or his freedom may be threatened by reason of his race, tribe, religion, nationality, political opinion or sex.

#### **Article 28 Procedure**

1. Except where this Convention otherwise provides, the procedure with regard to extradition and provisional arrest shall be governed solely by the law of the requested State.
2. States, whilst providing for a speedy extradition procedure, shall ensure that the person whose extradition has been requested has the right to be heard by a judicial authority and to be assisted by the lawyer of his own choice and shall submit to a judicial authority the control of his custody for the purpose of extradition as well as the conditions of his extradition.

#### **Article 29 Language to be Used**

The documents to be produced shall be in the language of the requesting or requested States. The requested State may require a translation into one of the official languages of ECOWAS to be chosen by it.

#### **Article 30 Expenses**

1. Expenses incurred in the territory of the requested State by reason of extradition shall be borne by that State.
2. Expenses incurred in conveying the person from the territory of the requested State shall be borne by the requesting State.
3. Expenses incurred by reason of transit through the territory of a State requested to grant transit shall be borne by the requesting State.

#### **Article 31 Reservations**

1. Any State may, when signing this Convention or when depositing its instrument of ratification make a reservation in respect of any provision or provisions of the Convention.
2. Any State which has made a reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Executive Secretary of ECOWAS.
3. A State which has made a reservation in respect of a provision of the Convention may not claim application of the said provision by another State save in so far as it has itself accepted the provision.

**Article 32**  
**Relations between this Convention and other Bilateral Agreements**

1. This Convention shall supersede the provisions of any Treaties, Conventions or Agreements on extradition concluded between two or several States except as provided under paragraph 3 Article 4 of this Convention.
2. States may conclude between themselves bilateral or multilateral agreements with one another only on the matters dealt with in this Convention, for purposes of supplementing or strengthening its provisions or facilitating the application of the principles embodied in it.

**Article 33**  
**Accession**

1. After entry into force of this Convention, the Council of Ministers may invite, by unanimous decision, non-Member States of the Community to accede to this Convention.
2. When a non-Member State of the Community requests to be invited to accede to this Convention, it shall submit this request to the Executive Secretary who shall immediately notify all other Member States.
3. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of accession with the Executive Secretariat.

**Article 34**  
**Amendment and Review**

1. Any State may submit proposals for the amendment or review of this Convention.
2. All proposals shall be submitted to the Executive Secretary, who shall forward them to Member States within thirty (30) days of receipt. Proposed amendments or reviews shall be considered by the Authority upon expiry of the thirty (30) days notice period given to Member States.

**Article 35**  
**Denunciation**

Any State may denounce this Convention in so far as it is concerned by giving notice to the Executive Secretary of the Community. Denunciation shall take effect six months after the date when the Executive Secretary received such notification

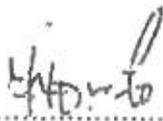
**Article 36**  
**Entry into Force and Deposit**

1. This Convention shall enter into force upon ratification by at least nine (9) signatory States, in conformity with the constitutional provisions of each signatory State.
2. This Convention and all the instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies to all Member States, notify them of the dates of deposit of the instruments of ratification and register this Convention with the Organisation of African Unity, the United Nations and any other organisation as may be determined by the Council of Ministers of the Community.

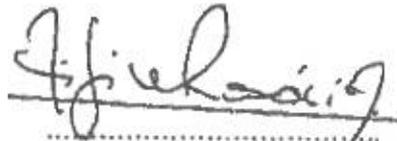
IN WITNESS WHEREOF, WE THE HEADS OF STATE AND GOVERNMENT  
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES  
HAVE SIGNED THIS CONVENTION.

DONE AT ABUJA, THIS 6TH DAY OF AUGUST, 1994

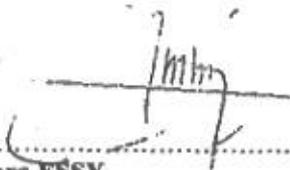
IN A SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES  
ALL TEXTS BEING EQUALLY AUTHENTIC



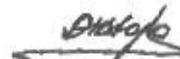
.....  
**Hon. Hermann YAMEOGO**  
*Minister of State for African Integration and  
Solidarity for and on behalf of the President  
of BURKINA FASO*



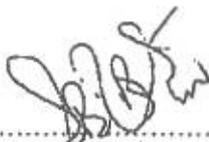
.....  
**Hon. Joao Higinio do Rosario SILVA**  
*Minister of Tourism, Industry and  
Commerce, for and on behalf of the  
Prime Minister of the Republic of  
CABO VERDE*



.....  
**Hon. Amara ESSY**  
*Minister of Foreign Affairs, for and  
on behalf of the President of the Republic  
of COTE D'IVOIRE*



.....  
**H. E. Nicephore Dieudonne SOGLO**  
*President of the Republic of BENIN*



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**H. E. Lt. Sana B. SABALLY**  
*Vice Chairman of the Armed Forces  
Provisional Ruling Council of The GAMBIA*



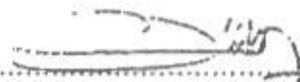
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**H. E. Ft. Lt. Jerry John RAWLINGS**  
*President of the Republic of GHANA*



.....  
**Hon. Ahmed Ould ZEIN**  
*Minister, Secretary-General of the  
Presidency, for and on behalf of the Head  
of State of the Islamic Republic of  
MAURITANIA*



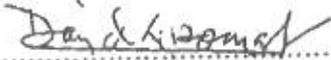
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**H. E. Lansana CONTE**  
*Head of State, President of the Republic  
of GUINEA*



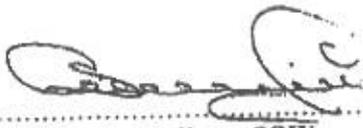
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**H. E. Mahamane OUSMANE**  
*President of the Republic of NIGER*

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**H. E. General Joao Bernardo VIEIRA**  
*President of the Council of State of the  
Republic of GUINEA BISSAU*

  
.....  
**H. E. General Sani ABACHA**  
*Head of State, Commander-in-Chief of the  
Armed Forces of the Federal Republic  
of NIGERIA*

  
.....  
**H. E. David KPOMAKPOR**  
*Chairman of the Council of State, Liberian  
National Transitional Government  
(LNTG) Republic of LIBERIA*

  
.....  
**H. E. Captain Valentine E.M. Strasser**  
*Chairman, National Provisional Ruling  
Council and Head of State of the Republic  
of SIERRA LEONE*

  
.....  
**Hon. Mrs. Sy Kadiatou SOW**  
*Minister of Foreign Affairs, of Malians  
Resident Abroad and of African Integration,  
for and on behalf of the President of the  
Republic of MALI*

  
.....  
**H. E. Edem KODJO**  
*Prime Minister of the Republic  
of TOGO, for and on behalf of the  
President of the Togolese Republic*

CHAPTER THREE

**PROTOCOL A/P3/12/01  
ON THE FIGHT AGAINST CORRUPTION**

## PREAMBLE

WE, the Heads of State and Government of the Member States of the Economic Community of West African States (ECOWAS);

CONSIDERING that the aims and objectives of the Community are to achieve the integration of its members;

MINDFUL of the provisions of Article 5 of the revised Treaty calling on Member States to take all necessary measures to harmonise their strategies and policies and to refrain from any action that may hinder the attainment of the said objectives;

RECALLING the provisions of Articles 48 and 49 of the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace keeping and Security that call on ECOWAS Member States to eradicate corruption and adopt measures for combating money laundering and to promote transparency, accountability and good governance within their territories;

CONSCIOUS of the grave consequences of corruption on investment, economic growth and democracy;

CONVINCED that transparency and good governance strengthen democratic institutions;

RECOGNISING the role of States in the prevention and suppression of corruption;

CONVINCED that the success of the fight against corruption requires sustained cooperation in criminal matters;

MINDFUL of the ECOWAS Convention on Mutual Assistance in Criminal Matters and the Convention on Extradition;

EXPRESSING satisfaction at the efforts of the United Nations Organisation, as well as the global efforts of international, regional and non-governmental organisations in the fight against corruption;

CONVINCED of the need to adopt preventive and suppressive measures to combat corruption and more particularly to take appropriate measures against persons who engage in acts of corruption in the exercise of their public and private functions;

RESOLVED to join the efforts of our States in the fight against corruption;

### HAVE AGREED AS FOLLOWS:

#### ARTICLE 1 DEFINITIONS

**"Public official(s)"** means any person who has been selected, appointed or elected and who performs public functions on a permanent or temporary basis.

**"Public function"** means any temporary or permanent, paid or honorary activity, performed by a natural or legal person in the name of the State or under its direction, control, and authority. The term "State" comprises the national, provincial, regional, local, and municipal levels and other public agencies.

**"Assets"** means property of any kind, whether moveable or immovable, tangible or intangible, and any document or legal instrument demonstrating, purporting to demonstrate, or relating to ownership or other rights pertaining to such assets.

**"Legal person(s)"** means any entity having such status under the applicable national law and includes other public bodies and public international organisations.

**"Treaty"** means the revised ECOWAS Treaty dated 24 July 1993 and includes any amendments thereto;

**"Member State(s)"** means a Member State of the Community as defined in paragraph 2 of Article 2 of the Treaty;

**"Authority"** means the Authority of Heads of State and Government of ECOWAS established by Article 7 of the Treaty;

**"Council"** means the Council of Ministers established by Article 10 of the Treaty;

**"Executive Secretary"** means the Executive Secretary of ECOWAS appointed in accordance with the provisions of Article 18 of the Treaty;

**"State Party or State Parties"** means States which have acceded to this Protocol and includes ECOWAS Member States;

**"Foreign Public Official"** means any person exercising a public function in enterprises or a public establishment in another Member State;

**"Community Court"** means the Community Court of Justice established pursuant to Articles 6 and 15 of the Treaty;

**"Predicate offence"** means any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in Article 6 of this Protocol;

## **ARTICLE 2 AIMS AND OBJECTIVES**

The aims and objectives of this Protocol are:

- i) to promote and strengthen the development in each of the State Parties effective mechanisms to prevent, suppress and eradicate corruption;
- ii) to intensify and revitalise cooperation between State Parties, with a view to making anti-corruption measures more effective;
- iii) to promote the harmonisation and coordination of national anti-corruption laws and policies.

## **ARTICLE 3 SCOPE**

1. This Protocol shall be applicable whenever an act of corruption is committed or produces some effects in a State Party.
2. This Protocol shall also be applicable whenever a national institutional system fails to provide the most basic preventive measures enumerated in Article 5 below.

## **ARTICLE 4 JURISDICTION**

1. Each State Party shall adopt the necessary measures to exercise its jurisdiction in respect of criminal offences established in accordance with Articles 6, 7 and 12 of this Protocol as long as:
  - a) the criminal offence was committed in its territory;
  - b) the criminal offence was committed by one of its nationals or by a permanent resident.

2. A State Party in whose territory an alleged offender is found, and which does not extradite such person in respect of an offence to which the ECOWAS Convention on Extradition applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purposes of prosecution.
3. Each State Party shall review its legislation with a view to ascertaining whether its current basis for jurisdiction is effective in the fight against the bribery of foreign public officials, and where it is not, it shall take appropriate remedial measures.
4. State Parties shall consult when more than one State Party asserts jurisdiction with a view to determining the most appropriate jurisdiction for prosecution.

## **ARTICLE 5 PREVENTIVE MEASURES**

In order to realise the objectives set out in Article 2 above, each State Party shall take measures to establish and consolidate:

- a) National laws, ethical guidelines, regulations and codes of conduct that would eliminate conflicts of interest, emphasise methods of recruitment based on merit and provide thorough measures aimed at guaranteeing reasonable standards of living;
- b) Transparency and efficiency in the procurement and disposal of goods, works and services and in the recruitment of personnel into the public service;
- c) Laws and other measures deemed necessary to ensure effective and adequate protection of persons who, acting in good faith, provide information on acts of corruption;
- d) Laws and regulations aimed at discouraging corruption of national and foreign officials;
- e) Participation of civil society and Non-Governmental Organisations (NGOs) in efforts to prevent and detect acts of corruption;
- f) Revenue collection systems that eliminate opportunities for corruption and tax evasion and provide for regulations which require companies and organisations to maintain adequate financial books and records and adhere to internationally accepted standards of accounting;
- g) Policies that oblige public officials to disclose assets, liabilities and copies of their income tax returns. The disclosure rules should be extended to at least the spouses and dependent children of the public officials. Provisions should be made to ensure that the information provided shall not be misused;
- h) Specialised anti-corruption agencies with the requisite independence and capacity that will ensure that their staff receive adequate training and financial resources for the accomplishment of their tasks;
- i) Freedom of the press and the right to information; and
- j) Policies to ensure that public officials do not take official decisions related to private business in which they have an interest.

## **ARTICLE 6 ACTS OF CORRUPTION**

1. This Protocol shall be applicable to the following acts of corruption:

- a) a public official demanding or accepting, either directly or indirectly through a third party, any object of pecuniary value such as a gift, offer, a promise or an advantage of any nature, whether for himself or for another person, in exchange for an act or an omission in the discharge of his duties;
  - b) offering or giving a public official, either directly or indirectly, any object of pecuniary value such as a gift, a favour or an advantage, whether for himself or another person, in exchange for an act or an omission in the discharge of his duties;
  - c) Any person who promises to offer or to grant directly or indirectly any undue advantage to any person who declares or confirms that he can exercise some influence on decisions or actions of persons occupying positions in the public or private sector, whether or not this influence had been exercised or not, or whether the supposed influence had the desired result or not;
  - d) any person who declares or confirms that he can exercise some influence on decisions or actions of persons occupying positions in the public or private sector, whether the influence is used or not, and whether or not the supposed influence had the desired result; and asking for or accepting directly or indirectly any undue advantage from whatever quarters;
  - e) a public official diverting from its initial purpose, either for his own benefit or for the benefit of another person, any assets, whether moveable or immovable, or deeds and securities belonging to the State, an independent agency or an individual, given to the public official by virtue of his position and for the needs of the State for safe-keeping and for other reasons.
2. Each State Party shall adopt necessary legislative and other measures to make the acts of corruption enumerated in this Protocol criminal offences.
3. (a) A significant increase in the assets of a public official that he cannot reasonably explain in relation to his lawful earnings shall be considered an illicit enrichment and an act of corruption for the purposes of this Protocol among those State Parties for which it is a criminal offence.
- (b) Any State Party, for which illicit enrichment is not an offence, shall, provide such assistance to and cooperation with the other State Parties.
4. Each State Party shall adopt necessary legislative and other measures to establish as offences liable to criminal or other sanctions the following acts or omissions, in order to commit, or conceal the offences referred to in this Protocol:
- a) Creating or using an invoice or any other accounting document or record containing false or incomplete information.
  - b) Unlawfully omitting to make a record of payment.
5. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the following acts:
- a) Promising to offer or giving public officials or employees of companies of the private sector, either directly or indirectly to themselves or to third parties, in order to carry out or abstain from carrying out an action in violation of their functions.
  - b) Public officials or employees of companies of the private sector, asking for or receiving, directly or indirectly, bribes for themselves or third parties, in order to carry out or refrain from carrying out an action in contravention of their duties.

6. Each State Party shall adopt necessary legislative and other measures to establish as criminal offences the act of aiding and abetting in any of the criminal offences established in accordance with this Protocol.
7. This Protocol shall also be applicable by mutual agreement between two or several State Parties, to any other act of corruption which is not included in these provisions.

**ARTICLE 7  
LAUNDERING OF PROCEEDS OF CORRUPTION AND  
SIMILAR CRIMINAL OFFENCES**

1. Each State Party shall adopt, in accordance with the fundamental principles of its national law, such legislative and other measures as may be necessary to establish as criminal offences:
  - (a)
    - (i) The conversion or transfer of assets, knowing that such assets are the proceeds of crime, for the purpose of concealing the illicit origin of the assets or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;
    - (ii) The concealment of the true nature, source, location, disposition, movement or ownership of or rights with respect to assets, knowing that such assets are the proceeds of crime;
  - (b) Subject to the basic concepts of its legal system:
    - (i) The acquisition, possession or use of assets, knowing at the time of receipt, that such assets are the proceeds of crime;
    - (ii) Participation in, association with or conspiracy to commit, attempts to commit, aiding and abetting in facilitating and concealing the commission of any of the offences established in accordance with this article.
2.
  - (a) Each State Party shall seek to apply paragraph 1 of this Article and consider as predicate offences, those acts stipulated in Articles 6, 7 and 12 of this Protocol;
  - (b) For purposes of sub-paragraph (a), predicate offences shall include offences committed both within and outside the jurisdiction of the concerned State Party. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only where the relevant conduct is a criminal offence under the domestic law of the State Party implementing or applying this Article had it been committed there.
  - (c) If required by fundamental principles of the national law of a State Party, it may be provided that the offences set forth in paragraph 1 of this Article do not apply to the persons who committed the predicate offences;
  - (d) Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this Article may be inferred from objective factual circumstances.

**ARTICLE 8  
PROTECTION OF WITNESSES**

1. Each State Party shall take appropriate measures within its means to provide effective protection to witnesses in criminal proceedings who give testimony concerning offences covered by this Protocol from potential retaliation or intimidation and, as appropriate, for their relatives and other persons close to them.
2. The measures envisaged in paragraph 1 of this Article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

- a) Establishing procedures for the physical protection of such persons, such as to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;
  - b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.
3. State Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in Paragraph 1 of this Article.
  4. The provisions of this Article shall also apply to victims insofar as they are witnesses.

#### **ARTICLE 9 ASSISTANCE AND PROTECTION OF VICTIMS**

1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Protocol, in particular in cases of threat, retaliation or intimidation.
2. Each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Protocol.
3. Each State Party shall permit the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings in a manner not prejudicial to the rights of the defence.

#### **ARTICLE 10 SANCTIONS AND MEASURES**

1. Each State Party shall provide, in respect of those criminal offences established in accordance with this Protocol, effective, proportionate and dissuasive sanctions and measures, including, when committed by natural persons, penalties involving deprivation of liberty which can give rise to extradition.
2. Each State Party shall ensure that legal persons held liable in accordance with Article 11, shall be subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.
3. Each State Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences established in accordance with this Protocol, or assets the value of which correspond to such proceeds.

#### **ARTICLE 11 LIABILITY OF LEGAL PERSONS**

1. Each State Party shall adopt such measures as may be necessary, and consistent with its legal principles, to establish the liability of legal persons for participation in offences established in accordance with articles 6, 7 and 12 of this Protocol.
2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.
3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this Article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions, disqualification from commercial activities, judicial winding-up orders, and placements under judicial supervision.

## **ARTICLE 12**

### **ACTS OF CORRUPTION CONCERNING FOREIGN PUBLIC OFFICIALS**

- 1 Each State Party shall prohibit and punish the act of offering or giving to a foreign public official, either directly or indirectly, any object of pecuniary value such as gifts, promises or favours, to compensate the public official for an act or an omission in the exercise of his official functions.
- 2 State Parties that have enacted laws making transnational corruption a criminal offence shall, for the purposes of this Protocol, consider such an act as an act of corruption while State Parties which have not passed such laws shall provide the necessary assistance and cooperation set out in this Protocol.

## **ARTICLE 13**

### **SEIZURE AND FORFEITURE**

1. Each State Party shall adopt measures, where necessary, that would permit:
  - a) the competent authorities to identify, locate and seize assets or items for eventual forfeiture.
  - b) the forfeiture of proceeds from crimes established in accordance with the provisions of this Protocol or other assets whose value is equal to the value of the crime;
2. In order to implement the measures referred to in this Article, each State Party shall empower its courts to order the surrender or seizure of bank, commercial or financial documents and shall not invoke banking secrecy in order to refuse the assistance requested by another State Party.
3. The requesting State Party shall undertake to use the information provided only for the purposes for which it was required.
4. In accordance with their national laws, treaties and other relevant agreements, State Parties shall assist each other in the identification and seizure of the assets or items acquired or used in committing the crimes.
5. Subject to its national laws, a State Party may transfer all or a part of the assets specified in the first paragraph of this Article to another State Party which has assisted it in carrying out investigations or prosecuting the crime.

## **ARTICLE 14**

### **EXTRADITION**

1. The criminal offences which come under the scope of application of this Protocol shall be considered as crimes leading to extradition and as forming part of the ECOWAS Convention on Extradition and any other extradition Treaties existing between the parties. The parties undertake to include such crimes in all extradition Treaties as crimes that may lead to extradition.
2. A State Party which receives an extradition request from another State Party with which it has not entered into any extradition Treaty may consider this Protocol as the legal basis of its request in relation to offences which fall within the context of this Protocol.

3. State Parties, which do not require the existence of a Treaty before they execute an extradition order, shall recognise the crimes established in accordance with the provisions of this Protocol as crimes leading to extradition.
4. The extradition shall be carried out in accordance with the provisions of the laws of the requested State Party or of the extradition Treaties in force, including reasons for which the requested State Party is rejecting the extradition request.
5. Where the extradition request submitted in accordance with the provisions of this Protocol is rejected on the basis of the nationality of the person whose extradition is sought or because the requested State feels it is competent to handle the matter, the requested State shall hand over the case to its competent authorities as soon as possible, except where other arrangements have been concluded with the requesting State Party, and shall inform the requesting State Party promptly of the outcome.

#### ARTICLE 15

#### MUTUAL LEGAL ASSISTANCE AND LAW ENFORCEMENT COOPERATION

1. In accordance with the provisions of their national legislation and the Treaties in force, State Parties undertake to assist each other by expediting action on requests submitted by competent authorities and to take necessary measures to facilitate the procedures and formalities relating to investigation and prosecution of acts of corruption.
2. State Parties undertake to assist each other as much as possible in the area of law enforcement cooperation so as to strengthen measures to prevent, detect and suppress acts of corruption.
3. The provisions of this Protocol shall not in any way affect the bilateral and multilateral Treaties which govern mutual assistance in criminal matters. No provision of this Protocol shall be considered as denying a State Party the right to favour the forms of mutual assistance set out in its national laws in its dealings with another State Party.
4. State Parties shall consider concluding bilateral or multilateral agreements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more State Parties, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements, joint investigations may be undertaken by agreement on a case-by-case basis. The State Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully

**ARTICLE 16  
CENTRAL AUTHORITY**

1. Within the framework of the cooperation and mutual assistance established in this Protocol, each State Party shall designate a Central Authority.
2. The Central Authorities shall be responsible both for formulating and receiving the requests for cooperation and assistance set out in this Protocol. They may establish direct lines of communication between themselves.

**ARTICLE 17  
APPLICATION IN TIME**

1. Acts of corruption committed before the entry into force of this Protocol may, at the request of State Parties, form the basis of judicial cooperation, on condition that national and international standards in the area of extradition are respected.
2. This provision shall in no way affect the non-retroactive nature of criminal law.

**ARTICLE 18  
HARMONISATION OF NATIONAL LEGISLATION**

State Parties undertake to develop and harmonise their national legislation with a view to realising the aims and objectives of this Protocol.

**ARTICLE 19  
ESTABLISHMENT OF A TECHNICAL COMMISSION**

1. State Parties undertake to establish a Technical Commission, in accordance with the provisions of Article 22 of the revised ECOWAS Treaty, which shall be called the Anti-corruption Commission. The Commission shall:
  - a) Monitor the implementation of this Protocol both at the national and sub-regional levels;
  - b) Gather and disseminate information among State Parties;
  - c) Regularly organise relevant training programmes;
  - d) Provide State Parties appropriate additional assistance.
2. The Technical Commission shall comprise experts from the Ministries in charge of Finance, Justice, Internal Affairs and Security of States Parties.
3. The Technical Commission shall meet at least twice every year.
4. The Technical Commission shall establish an appropriate balance between the confidentiality and transparency of its activities, and its deliberations shall be conducted on the basis of consensus and cooperation amongst its members.
5. Reports of meetings of the Technical Commission shall be submitted to the Council of Ministers.

**ARTICLE 20  
RELATIONS WITH OTHER TREATIES**

This Protocol repeals all preceding provisions relating to acts of corruption in all bilateral Treaties existing between two States Parties.

**ARTICLE 21  
NOTIFICATION**

In the course of application of the provisions of Articles 7, 13 and 18, the State Parties shall notify in advance, the Executive Secretariat of their domestic laws on these issues; which shall in turn inform the other State Parties.

**ARTICLE 22  
RATIFICATION AND ENTRY INTO FORCE**

This Protocol shall enter into force upon ratification by at least nine (9) signatory States, in accordance with their respective constitutional procedures.

**ARTICLE 23  
DEPOSITORY AUTHORITY AND REGISTRATION**

This Protocol and all instruments of ratification and accession shall be deposited with the ECOWAS Executive Secretariat which shall transmit certified true copies of this Protocol to all State Parties and notify them of the dates of deposit of the instruments of ratification and accession. The Executive Secretariat shall register this Protocol with the Organisation of African Unity, the United Nations Organisation and such other organisations as the Council may determine.

**ARTICLE 24  
ACCESSION**

Any non-ECOWAS Member State may accede to this Protocol.

**ARTICLE 25  
AMENDMENTS AND REVISION**

1. Any State Party may submit proposals for the amendment or revision of this Protocol.
2. All such proposals shall be submitted to the ECOWAS Executive Secretariat which shall notify State Parties not later than thirty (30) days after the receipt of such proposals. Amendments or revisions shall not be considered by the Authority unless State Parties shall have been given at least three (3) months notice thereof.
3. The amendments or revisions adopted by the Authority shall be submitted for ratification by all State Parties in accordance with their respective constitutional procedures. They shall enter into force in accordance with Article 89 of the Treaty.

**ARTICLE 26  
DENUNCIATION**

1. This Protocol shall be concluded for an indefinite period of time. It may, however, be denounced by any State Party. The instrument of denunciation shall be deposited with the Executive Secretariat. The Protocol shall cease to have any effect on State Parties that have denounced it one year after the instrument of denunciation has been deposited.
2. During the period of one year, the denouncing State shall continue to comply with the provisions of this Protocol and shall be bound by its obligations under this Protocol.

**ARTICLE 27  
SETTLEMENT OF DISPUTES**

1. Any dispute which may arise between the State Parties regarding the interpretation or application of this Protocol shall be amicably settled through direct agreement.

2. In the event of failure to settle the dispute, the matter may be referred to the Community Court of Justice by a party to the dispute, a State Party or the Authority, and the decision of the Community Court of Justice shall be final.

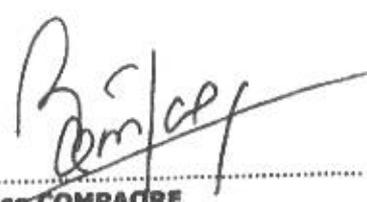
IN FAITH WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT  
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES HAVE  
SIGNED THIS PROTOCOL.

DONE AT DAKAR, THIS 21ST DAY OF DECEMBER 2001

IN A SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES,  
THE THREE TEXTS BEING EQUALLY AUTHENTIC.



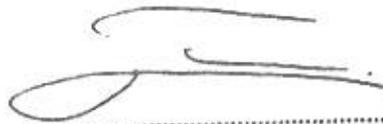
.....  
**H. E. Mathieu KEREKOU**  
President of the Republic of BENIN



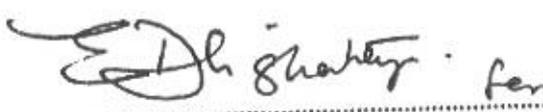
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**H. E. Blaise COMPAORE**  
President of FASO  
Chairman of the Council of Ministers



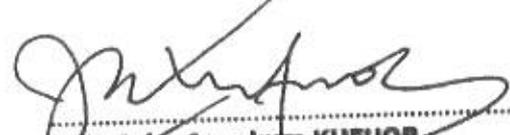
.....  
**H. E. Jose Maria Pereira NEVES**  
Prime Minister and Head of Government  
of the Republic of CAPE VERDE



.....  
**H. E. Abou Drahmane SANGARE**  
Minister of Foreign Affairs,  
For and on behalf of the President of the  
Republic of CÔTE D'IVOIRE



.....  
**H. E. Yahya A. J. J. JAMMeh**  
President of the Republic of The GAMBIA



.....  
**H. E. John Agyekum KUFUOR**  
President of the Republic of GHANA

Community  
decision of

.....  
**H. E. Lamine SIDIME**  
Prime Minister of the Republic of GUINEA

.....  
**H. E. Koumba Yala Kobde NHAMO**  
President of the Republic of  
GUINEA BISSAU

PAGES,

.....  
**H. E. Monie R. CAPTAN**  
Minister of Foreign Affairs  
For and on behalf of the President  
Of the Republic of LIBERIA

.....  
**H. E. Alpha Oumar KONARE**  
President of the Republic of MALI

.....  
**H. E. MINDAOUDOU Aïchatou (Mme)**  
Minister of Foreign Affairs  
For and on behalf of the President of  
the Republic of NIGER

.....  
**H. E. Olusegun OBASANJO**  
President and Commander-in-Chief of the  
Armed Forces of the Federal Republic of  
NIGERIA

.....  
**H. E. Abdoulaye WADE**  
President of the Republic of SENEGAL

.....  
**H. E. Alhaji Dr Ahmad Tejan KABBAH**  
President of the Republic of SIERRA LEONE

CHAPTER FOUR

**PROTOCOL A/P.1/10/06  
ESTABLISHING AN ECOWAS CRIMINAL INTELLIGENCE  
AND INVESTIGATION BUREAU**

## PREAMBLE

**WE, THE HEADS OF STATE AND GOVERNMENT OF MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS);**

MINDFUL of the revised ECOWAS Treaty signed in Cotonou on 24th July, 1993 and its supplementary texts;

MINDFUL of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping on Security of 10 December 1999;

ACKNOWLEDGING that the provisions of the ECOWAS Protocols on Free Movement, Right of Residence and Establishment of Persons in Member States facilitates the movement of criminals, contributing to the spread of criminal activities within the sub-region;

RECALLING the concern expressed by the session of the Authority of Heads of State and Government held in Abuja 28 and 29 May 2000 on the menace of the various forms of crime and their negative effects on the socio-economic development of countries in West Africa;

CONSIDERING the increasingly sophisticated methods employed by criminals and the rise in criminal activities;

CONVINCED that effective strategies to combat crime globally require the combined efforts of ECOWAS Member States and regional and international organisations;

RECALLING the Cooperation Agreement between ECOWAS and Interpol aimed at enhancing the capacity of ECOWAS in the control of sub-regional crime;

ALSO RECALLING directives of the 23rd summit of Heads of State and Government to establish a mechanism for a fight against various forms of crime through the establishment of a Criminal Intelligence and Investigation Bureau;

DESIRING to formally establish a bureau and provide it with adequate structures and also put in place the appropriate procedures for its operation.

**HAVE AGREED AS FOLLOWS:**

### **CHAPTER I GENERAL PROVISIONS**

#### **Article 1 Definitions**

In this Protocol,

**"ECOWAS"** means the Economic Community of West African States;

**"Community"** means the Economic Community of West African States established under Article 2 of the Treaty;

**"Authority"** means the Authority of Heads of State and Government established under Article 7 of the ECOWAS Treaty;

**"Council"** means the Council of Ministers established under Article 10 of the ECOWAS Treaty;

**"Crime"** or **"Organised Crime"** includes drug trafficking, terrorism, trafficking in Persons, money laundering, currency counterfeiting, cyber crime and other forms of trans-national crime;

**"Director-General"** means the Director-General of the Bureau;

**"Member State"** means a Member State of the Community;

**"Forum"** means the meeting of Ministers in charge of security or internal affairs in ECOWAS Member States;

**"CIIB"** means the ECOWAS Criminal Intelligence and Investigation Bureau established under Article 2 of the present Protocol;

**"Executive Secretary"** means the ECOWAS Executive Secretary appointed in accordance with the provisions of Article 18 of the Treaty;

**"Sub-region"** means the West African sub-region;

**"Treaty"** means the Treaty of the Economic Community of West African States signed in Cotonou (Benin) on 24th July, 1993;

**"Competent Authorities"** means all public bodies existing in Member States which are responsible under National law for preventing and combating criminal offences;

**"NCB-Interpol"** means National Central Bureau of Interpol;

**"WAPCCO"** means West African Police Chief's Committee.

## **CHAPTER II ESTABLISHMENT, NAME, OBJECTIVES, FUNCTIONS AND LEGAL CAPACITY**

### **Article 2**

1. There is hereby established an ECOWAS Criminal Intelligence and Investigation Bureau hereinafter referred to as "CIIB".
2. The CIIB shall be a specialised institution of ECOWAS, tasked with preventing and combating transnational crimes.
3. The CIIB shall liaise with a single national unit to be established in Member States in accordance with Article 46 (3) of the Protocol relating to the Mechanism on Conflict Prevention, Management, Resolution, Peace keeping and Security of 10th December 1999 and also liaise with the National Central Bureaux of Interpol and any other similar organisation.

### **Article 3 Objective and Functions**

1. The objective of the CIIB shall be to improve the effectiveness and cooperation of the competent authorities in Member States in preventing and combating transnational crimes and other related criminal offences in West Africa.
2. In the framework of its objective pursuant to paragraph 1 above, the CIIB shall:
  - a) facilitate the exchange of information on criminals, criminal organisations and their activities;
  - b) facilitate criminal investigations by law enforcement agencies of Member States by providing them with any useful information they may require;
  - c) participate in the formulation of coherent strategies aimed at combating crimes and eliminating criminal networks;

- d) Collect data from institutions such as the judiciary, the police, the gendarmerie and other law enforcement agencies in Member States on criminals, their mode of operation, arrests, prosecutions, trials and convictions pertaining to crime, particularly transnational crimes;
- e) establish a data bank on criminals, their mode of operation, current developments or innovations in crime methods, and national legislation relating to crime;
- f) use modern information technology to promote data sharing among Member States on criminals, their mode of operation, prosecutions, trials and convictions pertaining to transnational crimes;
- g) provide such information as the CIIB may consider appropriate from its data bank to Member States for dissemination to law enforcement agencies;
- h) contribute to the development of the human resources and skills of law enforcement agencies by organising training courses and seminars and developing training materials;
- i) in collaboration with the technical bodies of the Committee of West African Chiefs of Police, and the technical bodies of similar organisation, advise the Management Board on:
  - methods to strengthen regional capacity and capabilities to deal with transnational crimes;
  - the revision of existing laws relating to various forms of transnational crime, so as to bridge the gaps in legal systems which can be exploited by organised criminal groups;
- j) perform such other functions as are necessary for the achievement of the objectives set out in this Protocol.

**Article 4  
Legal Capacity**

1. The Criminal Intelligence and Investigation Bureau shall have legal personality.
2. The CIIB shall enjoy in each Member State the legal and contractual capacity available to legal persons under the laws of the Member State, in particular the power to acquire and dispose of movable and immovable property and to sue and be sued.
3. The CIIB shall have the power to conclude a Headquarters Agreement with any of the ECOWAS Member States. It shall also have the power to conclude the necessary confidentiality agreements, pursuant to Article 31(6), as well as other arrangements with States and international organisations within the meaning of Article 18(4), in the framework of the rules laid down by the Authority of Heads of State and Government on the basis of this Protocol.

**CHAPTER III  
ORGANS AND STAFF**

**Article 5  
Organs of the CIIB**

The organs of the ECOWAS Criminal Intelligence and Investigation Bureau shall be:

1. the Management Board;
2. the General Directorate;
3. the Budget Committee;
4. the Financial Committee;
5. National Units.

## **Article 6 Management Board**

1. The Management Board shall be the decision making body of the CIIB. In this capacity, the Board shall:
  - a. take part in the elaboration of the objectives of the CIIB;
  - b. define the rights and obligations of liaison officers towards the CIIB;
  - c. define implementing rules governing personal data files and rules governing the CIIB's relations with third States and third bodies;
  - d. decide on the details of the procedure for checking the legal character of retrievals in the information system;
  - e. take part in the appointment and dismissal of the Director-General, Deputy Director-General and the Financial Controller;
  - f. oversee the proper performance of the duties of the Director-General;
  - g. take part in the adoption of the Staff Regulations;
  - h. approve the regulatory provisions on the protection of confidentiality;
  - i. adopt the budget and the establishment plan, and take part in the auditing of the accounts submitted by the Director-General;
  - j. adopt a financing plan for the CIIB;
  - k. oversee the performance of the Financial Controller's duties;
  - l. approve the Financial Regulations;
  - m. adopt the rules for the security clearance of CIIB officials;
  - n. propose amendments to this Protocol when necessary.
  
2. The Management Board shall be composed of one representative of each Member State. Each member of the Management Board shall have one vote.

**Article 7**  
**General Directorate**

The General Directorate shall be the organ responsible for overseeing the operations of the CIIB. It shall be made up of a Director-General, a Deputy Director-General, Heads of Department, and liaison officers.

1. The Director-General shall be appointed by the Council of Ministers on the proposal of the Forum and on the recommendation of the Management Board for a period of 4 years renewable only once for the same period of 4 years.
2. The Director-General shall be responsible for:
  - a) performance of the tasks assigned to the CIIB;
  - b) day-to-day administration;
  - c) personnel management;
  - d) proper preparation and implementation of decisions of the Management Board;
  - e) preparing the draft budget, draft establishment plan and draft financing plan and implementing the budget of the CIIB;
  - f) all other tasks assigned to him by the Management Board;
3. The Director-General shall be accountable to the Management Board in respect of the performance of his duties.
4. The Director-General shall be the legal representative of the CIIB.
5. He shall attend the meetings of the Management Board.
6. The Director-General recommends the establishment plan of the CIIB departments to the Management Board.
7. The Deputy Director-General shall be appointed by the Council of Ministers on the proposal of the Management Board and on the recommendation of the Forum.
8. He shall assist the Director-General in the performance of the functions of the Director-General and act for the Director-General in his absence.
9. The Heads of Department shall be appointed and supervised by the Director-General.
10. The Heads of Department shall oversee the activities of the departments and staff placed under their supervision.
11. The Forum of Ministers in charge of Security may if it deems it necessary recommend to the Council of Ministers the restructuring of the existing departments or the establishment of new ones.
12. Liaison officers may be seconded to the CIIB by ECOWAS Member States. Their appointments shall be in conformity with the Staff Regulations of the Institutions of the Community.
13. Due regard shall be given to ensuring the highest standards of efficiency and technical competence and representation of the official languages of the Community.
14. The rights and obligations of the staff of the CIIB shall be as defined by the Council of Ministers on the proposal of the Management Board

**Article 8**  
**Budget Committee**

1. The Budget Committee shall oversee the accounts of the CIIB. It shall be made up of three members designated by the Council of Ministers, on the basis of their experience in budgetary matters. Their term of office shall be for three years only.
2. The accounts in respect of all income and expenditure entered in the budget together with the balance sheet showing the CIIB's assets and liabilities shall be subject to an annual audit in accordance with the ECOWAS Financial Regulations and Manual of Accounting procedures. For this purpose, the Director-General shall submit a report on the annual accounts by 31 December of the following year at the latest. Any costs arising from the audit shall be charged to the CIIB budget.
3. The Budget Committee shall submit to the Management Board an audit report on the annual accounts of the CIIB. Prior thereto, the Director-General and the Financial Controller shall be given an opportunity to express an opinion on the audit report and the report shall be discussed by the Management Board.
4. The Director-General shall provide the members of the Budget Committee with all information and every assistance which they may need in order to perform their task.
5. A decision on the discharge to be given to the Director-General in respect of budget implementation for the financial year in question shall be taken by the Management Board, after examination of the report on the annual accounts.

**Article 9**  
**Financial Controller**

A Financial Committee shall be responsible for the control and monitoring of the budget of the CIIB. It shall be headed by a Financial Controller appointed by the Council of Ministers on the proposal of the Forum and on the recommendation of the Management Board.

**Article 10**  
**National Units**

1. Each Member State shall establish a national unit within the framework of the operations of

- e) issue requests for advice, information, intelligence and analysis to the CIIB;
  - f) supply the CIIB with information for storage in the computerised system;
  - g) ensure compliance with the law in every exchange of information between themselves and the CIIB.
5. The costs incurred by the national units for communications with the CIIB shall be borne by the Member States.
  6. The Heads of national units shall meet at least once a year and as often as necessary to assist the CIIB by giving advice.

## **CHAPTER IV BUDGET**

### **Article 11 Budget**

1. (a) The budget of the CIIB shall be financed from the community Levy contributions by Member States.  
(b) The Budget can also be financed from third countries, International and Inter-governmental Organisations as well as any other sources approved by the Management Board.
2. Estimates shall be drawn up of all of the CIIB's income and expenditure for each financial year and these items entered in the budget. An establishment plan shall be appended to the budget. The financial year shall begin on 1 January and end on 31 December. The income and expenditure shown in the budget shall be in balance.
3. By 31 March each year at the latest, the Director-General shall draw up the draft budget and draft establishment plan for the following financial year and shall submit them, after examination by the Financial Committee, to the Management Board together with the draft financing plan.
4. The Management Board shall take a decision on the financing plan.
5. Financial contributions from the Member States shall be made in accordance with the ECOWAS formula for financial contributions.
6. The Director-General shall implement the budget in accordance with the Financial Regulations.
7. Monitoring of the commitment and disbursement of expenditure and of the establishment and collection of income shall be carried out by the Financial Controller. The Financial Regulations may make provision for ex-post monitoring by the Financial Controller in the case of certain items of income or expenditure.
8. Sanctions as prescribed by Article 7 of the ECOWAS Treaty of 24th July, 1993 may be imposed on Member States that fail to honour their financial obligations to the CIIB.

## **CHAPTER V CONFIDENTIALITY AND OBLIGATION OF DISCRETION**

### **Article 12 Confidentiality**

1. The CIIB and the relevant authorities in Member States shall take necessary measures to protect information obtained by or exchanged with the CIIB on the basis of this Protocol. To this end, the Director-General shall prepare appropriate rules on confidentiality which he shall submit for adoption by the forum.

- 2 Officials entrusted with the processing of information shall possess the required qualifications and shall undergo security screening to be organised by the Director-General or by the supervising authorities of the national units to ascertain their moral integrity.

### **Article 13**

#### **Obligation of Discretion**

- 1 The Director-General, Deputy Director-General, Heads of Department, Financial Controller, and the liaison officers shall carry out their duties keeping in mind the objectives and mandates of the CIIB.
- 2 The staff of the CIIB and members of its organs shall refrain from any action which may be harmful to the CIIB or prejudice its activities or negatively affect the integrity, independence, impartiality or exemplary conduct dictated by the dignity of their functions.
- 3 They shall neither address the press nor make pronouncements on the radio, television or any other medium on issues pertaining to the CIIB, without prior authorisation of the Director-General.
- 4 The staff of the CIIB and members of its organs shall not engage in any political activity, practise any profession, accept any other employment or mandate that is incompatible with their duties within the CIIB. Any staff of the CIIB wishing to occupy a political post shall resign from the CIIB.
- 5 The staff of the CIIB and members of its organs who are under obligation of discretion or confidentiality shall be bound not to disclose any facts or information which come to their knowledge in the performance of their duties or the exercise of their activities to any unauthorised person. This shall not apply to facts or information too insignificant to require confidentiality. The obligation of discretion and confidentiality shall apply even after leaving office or employment, or after termination of activities.
- 6 The persons mentioned in paragraph 4 above may not give evidence in or outside court or make any statements on any facts or information which come to their knowledge in the performance of their duties or the exercise of their activities, without reference to the Director-General or, in the case of the Director-General himself, to the Management Board.

- 7 The Director-General or the Management Board, as the case may be, shall approach the

2. The computerised system of collected information operated by the CIIB must under no circumstances be linked to other automated processing systems, except for the automated processing systems of the national units.

### **Article 15** **Establishment of an Information System**

1. In order to perform its tasks, the CIIB shall establish and maintain a computerised information system. The information system, into which Member States, represented by their national units, may directly input data in compliance with their national procedures, and into which the CIIB may directly input data supplied by third States and third bodies and analysis data, shall be directly accessible for consultation by national units and duly empowered staff of the CIIB.
2. Direct access by the national units to the information system in respect of the persons referred to in Article 18 (1.b) of this Protocol shall be restricted solely to the details of identity listed in Article 18(2). If needed for a specific enquiry, the full range of data shall be accessible to them via the liaison officers.
3. The Criminal Intelligence and Investigation Bureau shall:
  - a) have the task of ensuring compliance with the provisions governing cooperation on and operation of the information system;
  - b) be responsible for the proper working of the information system in technical and operational respects. The CIIB shall in particular take all necessary measures to ensure that the measures referred to in Articles 24 and 27 of this Protocol regarding the information system are properly implemented.
4. The national unit in each Member State shall be responsible for communication with the information system. It shall, in particular, be responsible for the security measures referred to in Article 24 in respect of the data-processing equipment used within the territory of the Member State in question, for the review in accordance with Article 27.

### **Article 16** **Content of the Information System**

1. The information system may be used to store, modify and utilise only the data the CIIB needs to perform its functions, with the exception of data concerning related criminal offences as referred to in Article 3 (1). Data entered shall relate to:
  - a) persons who, in accordance with the national law of the Member State concerned, are suspected of having committed or having taken part in a criminal offence for which the CIIB is competent under Article 3, or who have been convicted for such an offence;
  - b) persons who there are serious grounds under national law for believing will commit criminal offences for which the CIIB is competent under Article 3.
2. Personal data as referred to in paragraph 1 may include only the following details:
  - a) surname, maiden name, given names and, where necessary, any alias or assumed name;
  - b) date and place of birth;
  - c) nationality;
  - d) sex; and
  - e) where necessary, other characteristics likely to assist in identification, including any specific objective, physical characteristics not subject to change.

3. In addition to the data referred to in paragraph 2 above from the CIIB data the CIIB or the inputting national unit, the information system may also be used to store, modify and utilise the following details concerning the persons referred to in paragraph 1:
  - a) criminal offences, alleged crimes and when and where they were committed;
  - b) means which were or may be used to commit the crimes;
  - c) departments handling the case and their filing references;
  - d) suspected membership of a criminal organisation;
  - e) convictions, where they relate to criminal offences for which the CIIB is competent under Article 3.
4. The data may also be input when they do not yet contain any references to persons. Where the CIIB inputs the data itself, as well as giving its filing reference, it shall also indicate whether the data were provided by a third party or are the result of its own analyses.
5. Additional information held by the CIIB or national units concerning the groups of persons referred to in paragraph 1 may be communicated to any national unit or the CIIB should either so request.
6. Where the additional information concerns one or several related criminal offences as defined in Article 3 (1), the data stored in the information system shall be marked accordingly to enable national units and the CIIB to exchange information on the related criminal offences.
7. If the proceedings against the person concerned are dropped or if that person is acquitted, the data relating to either decision shall be deleted.

#### **Article 17** **Order Opening a Data File**

1. For every computerised data file containing personal data operated by the CIIB for the purpose of performing its tasks referred to in Article 18, the CIIB shall specify in an order opening the file, which shall require the approval of the Management Board:
  - a) the file name;
  - b) the purpose of the file;

request of the Member States concerned, may by a reasoned decision order the opening of a data file. At the same time, he shall inform the members of the Management Board of his decision. The procedure pursuant to paragraph 1 shall then be set in motion without delay and completed as soon as possible.

**Article 18**  
**Collection, Processing and Use of Data on Individuals**

1. Where this is necessary to achieve the objective laid down in Article 3, the CIIB may store, modify and utilise data which are intended for specific analyses, and concerning:
  - a) persons referred to in Article 16;
  - b) persons who may be called on to testify in investigations in connection with the offences under consideration or in subsequent criminal proceedings;
  - c) persons who have been the victims of the offences under consideration or with regard to whom certain facts give reason for believing that they could be the victims of such an offence;
  - d) contacts and associates;
  - e) persons who can provide information on the criminal offences under consideration.
2. Such files shall be opened for the purposes of analysis with the aim of helping a criminal investigation. Each analysis project shall entail the establishment of an analysis group closely associating analysts, liaison officers and/or experts of the Member States supplying the information or concerned by the analysis.
3. At the request of the CIIB or on their own initiative, national units shall communicate to the CIIB all the information which it may require for the performance of its tasks under Article 3 above.
4. The national units shall communicate such data only where processing thereof for the purposes of preventing, analysing or combating offences is also authorised by their national law.
5. Depending on their degree of sensitivity, data from national units may be routed directly and by whatever means that may be appropriate to the analysis groups.
6. If, in addition to the data referred to in paragraph 4, it would seem justified for the CIIB to have other information for the performance of its tasks under Article 3, the CIIB may request that:
  - a) ECOWAS Member States and bodies governed by public law established under the Treaty establishing the Community;
  - b) bodies which are based on an agreement between two or more ECOWAS Member States;
  - c) third States;
  - d) other bodies governed by public law which are based on an agreement between two or more States; and
  - e) the International Criminal Police Organisation.
7. It may also, under the same conditions and by the same means, accept information provided by those various bodies on their own initiative. The Forum of Ministers shall draw up the rules to be observed by the CIIB in this respect, after consulting the Management Board.

8. Insofar as the CIIB is entitled under other Conventions to gain computerized access to data from other information systems, the CIIB may receive personal data by such means.
9. If an analysis is of a general nature and of a strategic type, all Member States shall be fully associated in the findings thereof, in particular through the communication of reports drawn up by the CIIB.

Source of the information giving rise to the decision to open the analysis file shall participate therein.

#### **Article 19** **Rules on the Use of Data**

1. Personal data retrieved from the information system, the index system or data files opened for the purposes of analysis and data communicated by any other appropriate means, may be transmitted or utilised only by the competent authorities of the Member States in order to prevent and combat crimes falling within the competence of the CIIB and to combat other serious forms of crime.
2. The data referred to in the first paragraph shall be utilised in compliance with the law of the Member State responsible for the authorities which utilised them.
3. The CIIB may utilise the data referred to in paragraph 1 only for the performance of its tasks as referred to in Article 3.
4. If, in the case of certain data, the communicating Member State or the communicating third State or third body as referred to in Article 20 stipulates particular restrictions on use to which such data is subject in that Member State or by third parties, such restriction shall also be complied with by the user of the data except in the specific case where national law lays down that the restrictions be waived for judicial authorities, legislative bodies or any other independent body set up under the law and made responsible for supervising the national competent authorities within the meaning of Article 3. In such cases, the data may only be used after prior consultation of the communicating Member State whose interests and opinions must be taken into account as far as possible.
5. Use of data for other purposes or by authorities other than those referred to in Article 3 shall be possible only after prior consultation of the Member States which transmitted the data insofar as the national law of that Member State permits.

data supplied by Member States are due to faulty transmission or have been transmitted in breach of the provisions of this Protocol or if they result from their being entered, taken over or stored in an incorrect manner or in breach of the provisions of this Protocol by the CIIB, the CIIB shall be obliged to correct them or delete them in collaboration with the Member States.

3. In the cases referred to in paragraphs 1 and 2, the Member States which are recipients of the data shall be notified forthwith. The recipient Member States shall also correct or delete those data.
4. Any person shall have the right to ask the CIIB to correct or delete incorrect data concerning him.
5. The CIIB shall inform the enquirer that the data concerning him have been corrected or deleted. If the enquirer is not satisfied with the CIIB's reply or if he has received no reply within three months, he may refer the matter to the joint supervisory authority.

#### **Article 22**

##### **Liability for Unauthorised or Incorrect Data Processing**

1. Each Member State shall be liable, in accordance with its national law, for any damage caused to an individual as a result of legal or factual errors in data stored or processed at the CIIB. Only the Member State in which the event which gave rise to the damage occurred may be the subject of an action for compensation on the part of the injured party, who shall apply to the courts having jurisdiction under the national law of the Member State involved. A Member State may not plead that another Member State had transmitted inaccurate data in order to avoid its liability under its national legislation vis-à-vis an injured party.
2. If these legal or factual errors occurred as a result of data erroneously communicated or of failure to comply with the obligations laid down in this Protocol on the part of one or more Member States or as a result of unauthorised or incorrect storage or processing by the CIIB, the CIIB or the Member State in question shall be bound to repay, on request, the amounts paid as compensation unless the data were used by the Member State in the territory of which the damage was caused in breach of this Protocol.
3. Any dispute between that Member State and the CIIB or another Member State over the principle or amount of the repayment must be referred to the Management Board which shall settle the matter by a two-thirds majority.

#### **Article 23**

##### **Right of Access to the Information System**

1. Only the national units and the liaison officers shall have the right to input and retrieve data from the information system. The data shall be retrieved only when they are needed to perform a specific task and the right to retrieve the data shall be exercised in accordance with the legislative, regulatory and administrative provisions as well as procedures of the unit which retrieves the information, except as may be provided otherwise in this Protocol.
2. Only the unit which input the data shall have the right to modify, correct or delete the data. If another unit has sufficient reason to believe that the data referred to in Article 18 is incorrect or incomplete, it shall promptly notify the unit that input the data which shall immediately consider the request and, where necessary, modify, complete, correct or delete the data.
3. The unit which retrieves, inputs or modifies data contained in the information system shall ensure that such action is legal. The unit must be identifiable. Data sharing between the national units and the competent authorities in Member States shall be governed by national legislation.

**CHAPTER VII**  
**DATA SECURITY, RIGHT OF ACCESS AND TIME LIMITS**  
**FOR STORAGE OF DATA FILES**

**Article 24**  
**Data Security**

In respect of automated data processing at the CIIB, each Member State and the CIIB shall implement measures designed to:

- a) deny unauthorised persons access to data processing equipment used for processing personal data (equipment access control);
- b) prevent the unauthorised reading, copying, modification or removal of data media (data media control);
- c) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data (storage control);
- d) prevent the use of automated data processing systems by unauthorised persons using data communication equipment (user control);
- f) ensure that persons authorised to use an automated data processing system only have access to the data covered by their access authorisation (data access control);
- g) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment (communication control);
- h) ensure that it is subsequently possible to verify and establish which personal data have been input into automated data processing systems and when and by whom the data were input (input control);
- i) prevent unauthorised reading, copying, modification or deletion of personal data during transfers of personal data or during transportation of data media (transport control);
- j) ensure that installed systems may, in case of interruption, be immediately restored (recovery);
- k) ensure that the functions of the system perform without fault, that the appearance of faults in the functions is immediately reported (reliability) and that stored data cannot

**Article 26**  
**Responsibility in Data Protection matters**

1. Subject to other provisions in this Protocol, the responsibility for data stored at the CIIB, in particular as regards the legality of the collection, the transmission to the CIIB and the input of data, as well as their accuracy, their up-to-date nature and verification of the storage time-limits, shall lie with:
  - a) the Member State which input or otherwise communicated the data;
  - b) the CIIB in respect of data communicated to the CIIB by third parties or which result from analyses conducted by the CIIB.
2. In addition, subject to other provisions in this Protocol, the CIIB shall be responsible for all data received by the CIIB and processed by it, whether such data be in the information system referred to in Article 16, in the data files referred to in Article 17 in the data files opened for the purposes of analysis referred to in Article 18, or in the index system referred to in Article 19.
3. The CIIB shall store data in such a way that it can be established by which Member State or third party the data were transmitted or whether they are the result of an analysis by the CIIB.

**Article 27**  
**Time Limits for the Storage and Deletion of Data Files**

- 1) Data in data files shall be held by the CIIB only for as long as is necessary for the performance of its tasks. The need for continued storage shall be reviewed no later than three years after the input of data. Review of data stored in the information system and its deletion shall be carried out by the inputting unit. Review of data stored in other CIIB data files and their deletion shall be carried out by the CIIB. The CIIB shall automatically inform the Member States three months in advance of the expiry of the time limits for reviewing the storage of data.
- 2) During the review, the units referred to in the third and fourth sentences of paragraph 1 above may decide on continued storage of data until the next review if this is still necessary for the performance of the CIIB's tasks. If no decision is taken on the continued storage of data, those data shall automatically be deleted.
- 3) Storage of personal data relating to individuals as referred to in Article 18 may not exceed three years. Each time limit shall begin to run afresh on the date on which an event leading to the storage of data relating to that individual occurs. The need for continued storage shall be reviewed annually and the review documented.
- 4) Where a Member State deletes from its national data files data communicated to the CIIB which are stored in other CIIB data files, it shall inform the CIIB accordingly. In such cases, the CIIB shall delete the data unless it has further interest in them, based on intelligence that is more extensive than that possessed by the communicating Member State. The CIIB shall inform the Member State concerned of the continued storage of such data.
- 5) Deletion shall not occur if it would damage the interests of the data subject which require protection. In such cases, the data may be used only with the consent of the data subject.

**Article 28**  
**Correction and Storage of Data in Paper Files**

1. If it emerges that an entire paper file or data included in that file held by the CIIB are no longer necessary for the performance of CIIB's tasks, or if the information concerned is overall in contravention of this Protocol, the paper file or data concerned shall be destroyed. The paper file or data concerned must be marked as not for use until they have been effectively destroyed.

2. Destruction may not take place if there are grounds for assuming that the legitimate interests of the data subject would otherwise be prejudiced. In such cases, the paper file must bear the same note prohibiting all use.
3. If it emerges that data contained in the CIIB paper files are incorrect, the CIIB shall be obliged to correct them.
4. Any person covered by a CIIB paper file may claim the right vis-à-vis the CIIB to correction or destruction of paper files or the inclusion of a note. Article 21(4) and Article 34(2) and (7) shall be applicable.

#### **Article 29 Right of Access**

1. Any Individual wishing to exercise his right of access to data relating to him which have been stored within the CIIB or to have such data checked may make a request to that effect free of charge to the national competent authority in any Member State he wishes, and that authority shall refer it to the CIIB without delay and inform the enquirer that the CIIB will reply to him directly.
2. The request must be fully dealt with by the CIIB within three months following its receipt by the national competent authority of the Member State concerned.
3. The right of any individual to have access to data relating to him or to have such data checked shall be exercised in accordance with the law of Member State where the right is claimed.
4. Where the law of the Member State applied to provides for a communication concerning data, such communication shall be refused if such refusal is necessary to:
  - a) enable the CIIB to fulfil its duties properly;
  - b) protect security and public order in the Member States or to prevent crime;
  - c) protect the rights and freedoms of third parties and consequently the interests of the persons concerned by the communication of the information cannot prevail over the status right of refusal.
5. The right to communication of information in accordance with paragraph 3 shall be exercised

6. Should one or more Member States or the CIIB have objected to a communication concerning data, the CIIB shall notify the person concerned that it has carried out the checks, without giving any information which might reveal to him whether or not he is known.
7. The right to the checking of information shall be exercised in accordance with the following procedures:
  - a) Where the national law applicable makes no provision for a communication concerning data or in the case of a simple request for a check, the CIIB, in close cooperation with the national authorities concerned, shall carry out the checks and notify the enquirer that it has done so without giving any information which might reveal to him whether or not he is known.
  - b) In its reply to a request for a check or for access to data, the CIIB shall inform the enquirer that he may appeal to the joint supervisory body if he is not satisfied with the decision. The latter may also refer the matter to the joint supervisory body if there has been no response to his request within the time-limits laid down.
  - c) If the enquirer lodges an appeal to the joint supervisory body provided for in Article 34, the appeal shall be examined by that body.
  - d) Where the appeal relates to a communication concerning data entered by a Member State in the information system, the joint supervisory body shall take its decision in accordance with the national law of the Member State in which the application was made. The joint supervisory body shall first consult the national supervisory body or the competent judicial body in the Member State which was the source of the data. Either national body shall make the necessary checks, in particular to establish whether the decision to refuse was taken in accordance with paragraphs 3 and 4(1) of this Article. On confirmation of that, the decision, which may extend to a refusal to communicate any information, shall be taken by the joint supervisory body in close cooperation with the national supervisory body or competent judicial body.
  - e) Where the appeal relates to a communication concerning data entered by the CIIB in the information system or data stored in the work files for the purposes of analysis, the joint supervisory body, in the event of persistent objections from the CIIB or a Member State, may not overrule such objections unless by a majority of two-thirds of its members after having heard the CIIB or the Member State concerned. If there is no such majority, the joint supervisory body shall notify the enquirer that it has carried out the checks, without giving any information which might reveal to him whether or not he is known.
  - f) Where the appeal concerns the checking of data entered by a Member State in the information system, the joint supervisory body shall ensure that the necessary checks have been carried out correctly in close cooperation with the national supervisory body of the Member State which entered the data. The joint supervisory body shall notify the enquirer that it has carried out the checks, without giving any information which might reveal to him whether or not he is known.
  - g) Where the appeal concerns the checking of data entered by the CIIB in the information system or of data stored in the work files for the purposes of analysis, the joint supervisory body shall ensure that the necessary checks have been carried out by the CIIB. The joint supervisory body shall notify the enquirer that it has carried out the checks, without giving any information which might reveal to him whether or not he is known.
8. The above provisions shall apply mutatis mutandis to non-automated data held by the CIIB in the form of data files, i.e. any structured set of personal data accessible in accordance with specific criteria.

**Article 30**  
**Provisions on Drawing up of Reports**

The CIIB shall draw up reports for each retrieval made within the information system referred to in Article 16 in order to check whether they are permissible under law. The data contained in the reports shall only be used for that purpose by the CIIB and the supervisory bodies referred to in Articles 33 and 34 and shall be deleted after six months, unless the data are further required for ongoing control. The details shall be decided upon by the Management Board following consultation with the joint supervisory body.

**Article 31**  
**Communication of Data to Third States and Third Bodies**

1. The CIIB may under the conditions laid down in paragraph 4 communicate personal data which it holds to third states and third bodies within the meaning of Article 18(4), where:
  - a) this is necessary in individual cases for the purposes of preventing or combating criminal offences for which the CIIB is competent under Article 3;
  - b) an adequate level of data protection is ensured in that State or that body;
  - c) this is permissible under the general rules within the meaning of paragraph 2.
2. The Forum of Ministers shall determine the general rules for the communication of personal data by the CIIB to the third States and third bodies within the meaning of Article 18(4). The Management Board shall prepare the Forum's decision and consult the joint supervisory body referred to in Article 34.
3. The adequacy of the level of data protection afforded by third States and third bodies within the meaning of Article 18(4) shall be assessed taking into account all the circumstances which play a part in the communication of personal data; in particular:
  - a) the nature of the data;
  - b) the purpose for which the data is intended;
  - c) the duration of the intended processing; and
  - d) the general or specific provisions applying to the third States and third bodies within

7. Where the communication provided for in paragraph 1 concerns information subject to the requirement of confidentiality, it shall be permissible only insofar as an agreement on confidentiality exists between the CIIB and the recipient.

#### **Article 32**

##### **Relations with Third States and Third Bodies**

1. Insofar as is relevant for the performance of the tasks described in Article 3, the CIIB shall establish and maintain cooperative relations with third bodies within the meaning of Article 18(4). The Management Board shall draw up rules governing such relations. This provision shall be without prejudice to Article 18(4) and (5) and Article 31(2); exchanges of personal data shall take place only in accordance with the provisions of Articles 17 to 22 of this Protocol.
2. Insofar as is required for the performance of the tasks described in Article 3, the CIIB may also establish and maintain relations with third States and third bodies within the meaning of Article 18, paragraphs 4, 5, and 6.

#### **CHAPTER VIII**

#### **SUPERVISORY BODIES**

##### **Article 33**

##### **National Supervisory Body**

1. Each Member State shall designate a national supervisory body, the task of which shall be to monitor independently, in accordance with its respective national law, the permissibility of the input, the retrieval and any communication to the CIIB of personal data by the Member State concerned and to examine whether this violates the rights of the data subject.
2. For the purpose of paragraph 1 the supervisory body shall have access at the national unit or at the liaison officers' premises to the data entered by the Member State in the information system and in the index system in accordance with the relevant national procedures.
3. For their supervisory purposes, national supervisory bodies shall have access to the offices and documents of their respective liaison officers at the CIIB.
4. In addition, in accordance with the relevant national procedures, the national supervisory bodies shall supervise the activities of national units insofar as such activities are of relevance to the protection of personal data.
5. Each individual shall have the right to request the national supervisory body to ensure that the entry or communication of data concerning him to the CIIB in any form and the consultation of the data by the Member State concerned are lawful.
6. This right shall be exercised in accordance with the national law of the Member State to the national supervisory body of which the request is made.

##### **Article 34**

##### **Joint Supervisory Body**

1. An Independent joint supervisory body shall be set up, which shall have the task of reviewing, in accordance with this Protocol, the activities of the CIIB in order to ensure that the rights of the individual are not violated by the storage, processing and utilisation of the data held by the CIIB. In addition, the joint supervisory body shall monitor the permissibility of the transmission of data originating from the CIIB.
2. The joint supervisory body shall be composed of not more than two members or representatives (where appropriate assisted by alternates) of each of the national supervisory bodies guaranteed to be independent and having the necessary abilities, and appointed for five years by each Member State.

3. Each delegation shall be entitled to one vote.
4. The joint supervisory body shall appoint a chairman from among its members.
5. In the performance of their duties, the members of the joint supervisory body shall not receive instructions from any other body.
6. The CIIB must assist the joint supervisory body in the performance of the, in particular:
  - a) supply the Information it requests, give it access to all documents and paper files as well as access to the data stored in the system;
  - b) and allow it free access at any time to all its premises;
  - c) carry out the joint supervisory body's decisions on appeals in accordance with the provisions of Articles 29(7) and 21(4).
7. The joint supervisory body shall also be competent for the examination of questions relating to implementation and interpretation in connection with the CIIB's activities as regards the processing and utilization of personal data, for the examination of questions relating to checks carried out independently by the national supervisory bodies of the Member States or relating to the exercise of the right to information, as well as for drawing up harmonized proposals for common solutions to existing problems.
8. Each individual shall have the right to request the joint supervisory body to ensure that the manner in which his personal data have been collected, stored, processed and utilized by the CIIB is lawful and accurate.
9. If the joint supervisory body notes any violations of the provisions of this Protocol in the storage, processing or utilization of personal data, it shall make any complaints it deems necessary to the Director-General of the CIIB and shall request him to reply within a time limit to be determined by it. The Director-General shall keep the Management Board informed of the entire procedure. In the event of any difficulty, the joint supervisory body shall refer the matter to the Management Board.
10. The joint supervisory body shall draw up activity reports at regular intervals; the Management Board shall first have the opportunity to deliver an opinion, which shall be attached to the reports. The joint supervisory body shall decide whether or not to publish its activity report,

**CHAPTER IX  
SETTLEMENT OF DISPUTES**

**Article 35**

- 1 Disputes between Member States on the interpretation or application of this Protocol shall in an initial stage be discussed by the Management Board with the aim of finding a settlement.
- 2 When such disputes are not so settled within six months, the Member States who are parties to the dispute shall decide, by agreement among themselves, the modalities according to which they shall be settled.
- 3 The provisions on appeals referred to in the rules relating to the conditions of employment applicable to temporary and auxiliary staff of ECOWAS shall apply, *mutatis mutandis*, to the staff of the CIIB.

**CHAPTER X  
HEADQUARTERS  
PRIVILEGES AND IMMUNITIES**

**Article 36  
Headquarters**

1. The Authority shall decide the Headquarters of the CIIB.
2. The necessary arrangements concerning the accommodation to be provided for the CIIB in the headquarters State and the facilities to be made available by that State as well as the particular rules applicable in the CIIB headquarters State to members of the CIIB's organs, its employees and members of their families shall be laid down in a headquarters agreement between the CIIB and the Member State concerned.

**Article 37  
Privileges and Immunities**

1. The CIIB staff and the members of its organs shall enjoy the privileges and immunities necessary for the performance of their tasks in accordance with the ECOWAS General Convention on Privileges and Immunities of 1978 and the Headquarters Agreement setting out the rules to be applied in all Member States.
2. The country hosting the headquarters and the other Member States shall agree in the same terms that liaison officers seconded from the other Member States as well as members of their families shall enjoy those privileges and immunities necessary for the proper performance of the tasks of the liaison officers at the CIIB.

**CHAPTER XI  
LANGUAGES**

**Article 38  
Production of Documents**

All reports and documents to be submitted to Management Board shall be produced in the official languages of the Community.

## CHAPTER XII FINAL PROVISIONS

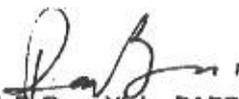
### Article 39 Amendment

1. Any Member State, the Executive Secretary or the Management Board of CIIB may submit proposals for the amendment or revision of this Protocol.
2. Any such proposals shall be submitted to the Executive Secretary who shall notify other Member States thereof not later than thirty (30) days after the receipt of such proposals. Amendments or revisions shall not be considered by the Authority unless Member States shall have been given at least three months notice thereof.
3. Amendment or revisions shall be adopted by the Authority and shall be submitted for ratification by all Member States in accordance with their respective constitutional procedures. They shall enter into force in accordance with article 40 of this Protocol.

### Article 40 Entry into Force

1. This Protocol shall enter into force upon ratification by at least nine (9) signatory States in accordance with their respective constitutional requirements.
2. The present Protocol and all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies of this Protocol to all Member States and notify them of the dates of deposit of the instruments of ratification and shall register this Protocol with the African Union, United Nations Organization and such other organizations as the Council may determine.
3. The depository shall publish the ratifications, instruments or communications concerning this Protocol in the official Journal of the Community.

**IN WITNESS WHEREOF WE, THE HEADS OF STATE AND OF GOVERNMENT OF THE  
ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS), HAVE SIGNED THE  
PRESENT PROTOCOL**



**H. E. Raouf Vieira BARBOSA**  
*Ambassador of Cape Verde in Senegal  
Representing H. E. the President  
of the Republic of Cape Verde*



**H. E. Alieu M. Ngum**  
*Minister of Trade, Industry and  
Employment Representing H. E. the  
President of The Gambia*

**H. E. Nana AKUFO-ADDO**  
*Minister of Foreign Affairs  
Representing H. E. The President  
of the Republic of Ghana*



**H.E. Cellou Dalein DIALLO**  
*Prime Minister  
of the Republic of Guinea*



**H.E. Joao Bernardo VIEIRA**  
*President of the Republic of  
Guinea Bissau*



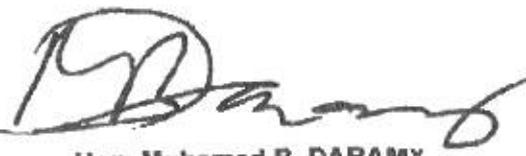
**H. E. Mamodou Tandja**  
*President of the Republic of Niger*



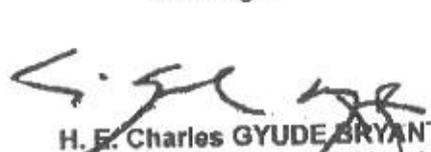
**For H. E. Chief Olusegun Obasanjo**  
*Commander-in-Chief of the Armed Forces  
and President of the Federal Republic  
of Nigeria*



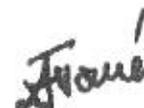
**Hon Abdou Aziz SOW**  
*Minister of NEPAD, of African  
Economic Intergration and  
of Policy of Good Governance  
Representing H. E. The President  
of Senegal*



**Hon. Mohamed B. DARAMY**  
*Minister of Development and  
Economic Planning  
Representing H. E. The President  
of the Republic of Sierra Leone*



**H. E. Charles GYUDE BRYANT**  
*Chairman of The Transitional  
Government of Liberia*



**H. E. Amadou Toumani TOURE**  
*President of the Republic of Mali*

**S. E. Faure Ezzionma Gnassingbe**  
*President of the Togolese Republic*

CHAPTER FIVE

**SUPPLEMENTARY ACT /SA.1/07/13  
RELATING TO THE ESTABLISHMENT AND  
IMPLEMENTATION OF THE JOINT BORDER POSTS  
CONCEPT WITHIN MEMBER STATES OF THE  
ECONOMIC COMMUNITY OF WEST AFRICAN STATES**

## THE HIGH CONTRACTING PARTIES,

MINDFUL of Article 7, 8 and 9 of the ECOWAS Treaty as amended establishing the Authority of Heads of State and Government;

MINDFUL of Article 32 of the said Revised Treaty which provides for the adoption of common transport and communication policies laws and Regulations as a means of ensuring harmonious integration of the physical infrastructure of Member States and the promotion and facilitation of movement of persons, goods and services within the Community;

MINDFUL of Protocol A/P. 1/5/79 of 29th May 1979 as amended relating to Free Movement of Persons, Residence and Establishment;

MINDFUL of the ECOWAS Decision A/DEC 20/5/80 of the Authority of Heads of State and Government of May 18th, 1980 relating to the Community Transport Program;

MINDFUL of Convention A/P4/5/82 on inter-State Road Transit of Goods;

MINDFUL of the ECOWAS Convention No A/P2/5/82 of 29 May 1982 regulating inter-State Road Transportation between ECOWAS Member States;

MINDFUL of Convention A/P5/5/82 of May 29 1982 for mutual administrative assistance on customs matters;

MINDFUL of Decision C/DEC.8/12/88 of the Council of Ministers on the second phase of ECOWAS road projects relating to interconnection of roads for the opening up of the landlocked countries;

MINDFUL of Protocol A/SP.1/5/90 of May 30th, 1990 establishing within the Community, a guarantee mechanism for inter-State road transit of goods operations;

MINDFUL of Convention A/P.1/7/92 of 29 July, 1992 relating to mutual assistance in criminal matters;

MINDFUL of Convention A/P.1/8/94 of 06 August, 1994 on extradition;

MINDFUL of the ECOWAS Decision A/DEC.13/01/03 of January 31st, 2003 relating to the implementation of the Regional Road Transit Facilitation Program;

MINDFUL of the Yamoussoukro Resolution n°2 of September 4th, 2008 of Ministers of Transport on the implementation of the Joint Border Posts Program in ECOWAS and UEMOA member States;

MINDFUL of Supplementary Act SP.17/02/12 relating to the harmonization of standards and procedures for the control of dimensions, weight and axle load of goods vehicle within Member States of the Economic Community of West Africa;

CONSIDERING provisions of the United Nations Convention relating to rights of transit trade for landlocked countries signed in New York on July 8th, 1985;

NOTING THAT the current organization and management of border posts poses obstacles to the flow of transport and transit within and between the Community Member States;

NOTING ALSO that the trade and free movement of persons and goods within the Community can be achieved by establishing and implementing joint border posts;

ACKNOWLEDGING the need to reinforce cooperation between ECOWAS Member States with the view to speeding up the economic integration of West Africa;

DETERMINED to provide a legal framework for Joint Border Posts within the Community in order to enhance trade and transit facilitation at national borders of the Member States;

ON THE PROPOSAL of the Expert meeting of Member states held in Grand-Bassam (Cote d'Ivoire) on 22 to 24 October 2012;

ON THE RECOMMENDATION of Seventieth Session of the Council of Ministers held in Abidjan from 20 to 21 June 2013;

HAVING obtained the opinion of the Community Parliament;

#### HAVE AGREED AS FOLLOWS:

### CHAPTER I: DEFINITIONS, OBJECTIVE AND SCOPE OF APPLICATION

#### Article 1: Definitions

In this Supplementary Act, the following terms shall have the meanings ascribed hereto, unless the context otherwise requires:

**"Act"** means this Supplementary Act / SA /18/07/13.

**"Adjoining Member States"** means Member States that share a border between them at which a Joint Border Post is established in terms of this Act;

**"Border controls"** means any border-related control measures, checks and authorizations, without limitation, provided for in the national laws and regulations of the Member States;

**"Commission"** means the ECOWAS Commission established by new Article 17 of Supplementary Protocol A/SP. 1/06/06 of 14 May 2006 amending the Revised Treaty;

**"Common control zone"** means the Joint Border Post perimeter within which officers of both adjoining Member States are empowered to effect border controls and includes the exclusive use areas;

**"Community"** means the Economic Community of West African States (ECOWAS) established

**“Joint Committee”** means a bilateral Committee of adjoining Member States established in terms of Article 50 of this Act;

**“Journal”** means the Official Journal of the Community;

**“Law enforcement agency”** means any agency or person empowered by the national and border control legislation of each Member State to enforce the provisions thereof;

**“Management Authority”** means the institution mandated by the Community in consultation with the adjoining Member States in terms of Article 53 of this Act to maintain, administer and manage Joint Border Post facilities;

**“Member State(s)”** means the Member State(s) as defined in paragraph 2 of Article 2 of the Revised Treaty;

**“Officer”** means a person responsible for conducting border controls in terms of the national laws and regulations of the Member States;

**“State of location”** means the Member State in whose territory the Joint Border Post is located;

**“Treaty”** means the Revised Treaty of the Community of 24th July 1993 and its subsequent amendments.

### **Article 2: Objective and scope of application**

- 1) The objective of this Supplementary Act is to make standardized provisions for the establishment and implementation of the Joint Border Posts Concept within the Community and for related matters.
- 2) This Supplementary Act shall apply, without limitation, to all persons carrying out official border control, facilitation and management functions and those who access a joint border post for purposes of accessing the services therein provided or providing commercial or other services therein. It specifically covers:
  - a) The establishment and objectives of joint border posts and the configuration of the common control zone from which border controls are effected.
  - b) The legal principles to be applied in the conduct of joint border controls and functions by officers and forwarding agents of adjoining Member States and outlines the principles governing the exercise of dual jurisdiction by the adjoining Member States in the common control zone.
  - c) The extra-territorial application of both the border control and criminal laws of the adjoining Member States in the common control zone.
  - d) The underlying basis for the allocation and use of facilities and equipment in the common control zone for border control and other purposes.
  - e) The institutional and management arrangements for the joint border posts.
  - f) General provisions relating to temporary measures, dispute resolution and procedures for amendments and its entry into force.

## **CHAPTER II: JOINT BORDER POSTS AND COMMON CONTROL ZONES**

### **Article 3: Establishment and objectives of Joint Border Posts**

- 1) The Community shall establish and Member States shall utilize joint border posts (JBPs) at their common borders as herein outlined in this Supplementary Act. They may enter into such multilateral and bilateral arrangements as shall be necessary for purposes of implementing the provisions of this Supplementary Act.

- 2) The main objective of such joint border posts shall, inter alia, be to enhance trade facilitation through the efficient movement of goods, persons and services within the Community and with adjoining regions.

#### **Article 4: Status of the land**

- 1) The land on which joint border post facilities are to be built shall be land belonging to the Community in terms of appropriate instruments of transfer from the Member States to the Community and such facilities shall equally be the property of the Community.
- 2) Each State of location shall ensure that the joint border post perimeter and its immediate surroundings are kept free of any settlements or activities that may disturb the joint border post operations by way of an appropriate security buffer zone.

#### **Article 5: Establishing, types and arrangement of common control zones**

- 1) The Community shall facilitate the implementation of joint border processing arrangements by establishing and designating common control zones at the respective joint border posts on Community land between adjoining Member States.
- 2) In accordance with the provisions of this Supplementary Act, the common control zones may, at the discretion of the Community in consultation with the adjoining Member States, be wholly located in the territory of one adjoining Member State or juxtaposed or straddled between the states or in any other mutually agreed arrangement.
- 3) Such control zones shall be so arranged that, for each direction of travel, border controls shall be carried out by the adjoining Member States from a single stop location and, depending on the arrangement in the common control zone located in the adjoining Member State of entry.

#### **Article 6: Demarcation and security of common control zones**

- 1) The common control zones including access roads thereto shall comprise the specifically demarcated and secured physical areas as shall be more fully described in a document. The contents of the said document shall be mutually agreed upon between the Community and the relevant adjoining Member States.

### **Article 8 : Traffic Control**

The competent authorities of the adjoining Member States shall adopt and enforce efficient passenger and vehicle traffic control routes, procedures and traffic rules within and through the common control zones.

### **Article 9: Synchronized hours of operation**

The competent authorities of the adjoining Member States shall adopt synchronized business days and working hours for their respective operations in the common control zones which shall ordinarily be twenty-four (24) hours a day, seven (7) days a week.

## **CHAPTER III: CONDUCT OF BORDER CONTROLS**

### **Article 10: Powers of Officers to carry out border controls**

- 1) Officers of the adjoining Member States shall be empowered to carry out border controls strictly within the common control zones at the joint border posts mutually established in terms of Article 3 of this Act.
- 2) Such Officers of the adjoining Member States shall be empowered to exercise border controls within the common control zone in the State of location in accordance with their own national border control laws. For the avoidance of doubt, this includes the exercise of any powers of arrest, search, seizure, detention of persons and things, and all such other powers as may be specifically provided for in their own national border control legislation.
- 3) For the purpose of enabling Officers of each Member State to carry out their border controls at a joint border post in one or more adjoining States of location in terms of this Act, the border control legislation of each Member State shall mutually apply extraterritorially within the common control zones.

### **Article 11: Sequence of Controls**

- 1) The exit formalities of the Member State of exit shall be carried out before the entry formalities of the Member State of entry. Such formalities shall, to the extent possible, be carried out jointly and shall be sequenced as may be mutually agreed to by adjoining Member States depending on practical considerations.
- 2) The Officers of the Member State of entry shall not commence carrying out border controls before the Officers of the Member State of exit have completed their border controls, regardless of the sequencing adopted in terms of paragraph 1 of this Article. Such handover of jurisdiction shall be by way of a final official stamp to that effect or electronic release received by the Member State of entry. For the purposes of this article, any form of relinquishment of such border controls, shall be considered a form of border controls.
- 3) The Officers of the Member State of exit shall, similarly, no longer carry out their border controls when the Officers of the Member State of entry have begun their own border controls except with the consent of the Officers of the Member State of entry duly authorized to take such decisions, which consent shall not be unreasonably withheld.

### **Article 12: Joint Controls**

- 1) Notwithstanding the provisions of Article 11 of this Supplementary Act, the respective Officers of the adjoining Member States shall jointly conduct physical inspections and verifications, undertake searches, take samples of cargo and inspect means of transport, or where such is not reasonably practical, in immediate succession. Alternatively, either adjoining Member

State may rely on the inspection and search results of the other, which results shall not be unreasonably withheld.

- 2) In the conduct of such joint controls, adjoining Member States shall ensure optimal use of facilities and equipment provided for such controls through joint and shared usage.

#### **Article 13: Reversal of controls**

Where, in exceptional circumstances in the course of border controls, the sequence provided for in Article 11 of this Act is modified or reversed, the Officers of the Member State of entry shall not proceed to conduct detentions, arrests or seizures until the border controls of the Member State of exit are completed. In such a case, the Officers of the Member State of entry shall escort the persons, vehicles, animals, merchandise or other goods for which the border controls of the Member State of exit are not yet completed, to the Officers of that Member State of exit who may proceed to complete their controls and take such measures as they deem necessary.

#### **Article 14: Obligation to readmit**

- 1) Where, after completion of exit formalities, the Member State of entry refuses to admit any persons, vehicles, animals, merchandise, or other goods, or if such persons decide not to pass through the border controls of the Member State of entry, or decide to send or take back any vehicles, merchandise, animals or other goods under their control, the officers of the Member State of exit shall accept back such persons, vehicles, animals, merchandise, or other goods.
- 2) The competent authorities of the Member State of exit may, however, take any measures to deal with the circumstances outlined in paragraph 1 of this Article in accordance with their national laws and in a manner that does not impose obligations on the Member State of entry.

#### **Article 15: Computerized controls**

In carrying out its controls, each Member State shall, to the extent practical, ensure it utilizes computerized controls for all agencies carrying out controls at the joint border post including such systems as the Inter-State Road Transit of Goods system and single window concept which maximize on the use of computerized control systems and procedures that avail electronic information in advance and oblige the simultaneous and coordinated effecting of controls by all agencies with a mandate and interest at the joint border post.

#### **Article 16: Free transfer of money and goods**

The officers of the adjoining Member State shall freely transfer any revenue levied on behalf of their Government as well as merchandise and other goods lawfully seized in the common control zone to their own territory.

#### **Article 17: Higher levels of trade facilitation**

Nothing in this Act shall prevent adjoining Member States from agreeing to higher levels of trade facilitation at their common borders through, inter alia, the integration of their border control structures within or between themselves, including reliance on Officers of one Member State carrying out controls for and on behalf of the other in terms of that other's national laws. The powers to be exercised by such Officers in such circumstances shall be agreed upon between the relevant adjoining Member States in bilateral arrangements which shall be in conformity with the provisions of this Act.

## **CHAPTER IV: APPLICATION OF BORDER CONTROL LAWS**

### **Article 18: Laws to apply in the same way as in own territory**

- 1) The laws relating to border controls of the adjoining Member States shall apply in the common control zone and shall be put into effect by the Officers of the adjoining Member States in the same way as such laws are effected in their own territories.
- 2) Breaches of the laws relating to border controls of the adjoining Member States that are detected in the common control zone are subject to the laws of the adjoining Member States as if the breaches had occurred in the adjoining Member States' own territories.
- 3) Officers of an adjoining Member State may, in terms of their own border control laws, detain, question, search or arrest any person in the common control zone who is undertaking formalities of that adjoining Member State, be they exit or entry formalities. They may, in the course of conducting their border controls, escort such person to the territory of such adjoining Member State.

### **Article 19: Limitations to application of border control laws**

- 1) Officers of an adjoining Member State shall not, in the common control zone, arrest or detain a person who is undertaking formalities of the other adjoining Member State. In exceptional circumstances where such person's attendance at the office of the said adjoining Member State may be required in order that a statement may be taken, such attendance shall be with the consent and in the presence of the competent authorities of the other adjoining Member State.
- 2) Nothing in paragraph 1 of this Article shall prevent an Officer of an adjoining Member State from passing on information to the other adjoining Member State relating to any person or goods exiting that other adjoining Member State which information can only be acted upon once such adjoining Member State assumes jurisdiction over such person or goods within the common control zone.

### **Article 20: Consistent operational procedures**

The Member States shall agree to operating procedures consistent with the principles contained in this Act to facilitate the application of their border controls. Without limitation to the generality of this Article, such procedures shall, inter alia, include harmonization of documents, mandatory pre-clearance of specified local importation and transit goods and entrenchment of existing arrangements for locals living around the common border. Such procedures shall be outlined in an Operating Procedures Manual.

### **Article 21: Information and Communication Technologies**

The Member States shall further agree to comprehensive mandatory Information and Communication Technologies (ICT) requirements at their common borders to enable seamless, reliable and effective data exchange of high integrity and appropriate format and language within and between the various border control agencies of the Member States operating at the joint border posts. Such ICT platforms shall include reliable and transparent cross border transit systems, cargo clearing and tracking systems within the territories of the Member States.

## CHAPTER V: APPLICATION OF CRIMINAL LAWS

### Article 22: Criminal acts in terms of border control laws

- 1) Any act or omission in terms of the border control laws of a Member State that occurs within the common control zone at a joint border post :
  - a. by a citizen or resident or any other person who has not completed the formalities and procedures for exit or entry of that Member State; and
  - b. that is an act or omission which, if it had occurred within the territory of such Member State, would have constituted an offence against the laws of the said Member State, shall be regarded as if it had occurred within the territory of such Member State.
- 2) The law enforcement agencies of the adjoining Member States shall have jurisdiction to carry out their border control activities in the common control zone or assist other border control Officers in effecting their controls to the extent such is mandated by their national laws.
- 3) For the purpose of determining which court in the Member State has jurisdiction to try an offence referred to in paragraph 1 of this Article the offence shall be deemed to have been committed within the area of jurisdiction of the competent court nearest to the place where the act or omission constituting the offence occurred.

### Article 23: Criminal acts in terms of non border control laws

- 1) Subject to Article 7(3) of this Act, the law enforcement agencies of the adjoining Member States shall be equally responsible for maintaining peace, security, law and order, and dealing with non-border control related criminal offences committed in the control zone.
- 2) Such equal responsibility shall, depending on the arrangement governing the joint border post and at the mutual discretion of the adjoining Member States in consultation with the Community, either be shared, or joint, or delegated to one adjoining Member State or some other arrangement as may be agreed between the adjoining Member States in consultation with the Community.
- 3) The rules of operation of the law enforcement agencies in carrying out their responsibilities

#### **Article 25: Assistance and joint operations to combat crime**

- 1) The law enforcement agencies of one adjoining Member State may, upon request and to the extent such is mandated by their national laws, assist those of the other adjoining Member State in effecting their mandated controls in the common control zone including, without limitation, the transfer of suspects and exhibits, the provision of secure holding cells and related facilities.
- 2) Adjoining Member States may agree to parameters for carrying out security related joint border patrols beyond the common control zones and within defined limits in each other's territory consistent with the principles contained in this Act to facilitate the combat of cross-border crime.

### **CHAPTER VI: CONDUCT OF OFFICERS**

#### **Article 26: Free movement of officers in the Common Control Zone**

- 1) Officers of the adjoining Member States shall be permitted to move freely in the common control zone for purposes of executing their official functions and duties as mandated in their own national laws.
- 2) In carrying out their official functions and duties, they shall not be required to produce passports or visas and may pass through border controls of the other adjoining Member State simply by producing appropriate evidence of their identity and status.

#### **Article 27: Number of Officers, names and designation**

- 1) The adjoining Member States shall agree on the number of Officers that may be tasked to undertake duties in the common control zone, which number shall take into account the passenger and vehicle volumes at any peak point in time. The number may be varied from time to time at the discretion of each adjoining Member State.
- 2) The competent authorities of the adjoining Member States shall inform each other, in writing, of the names and designation of the Officers that will be working within the common control zone. In the event of any changes, information of such changes shall be communicated promptly to the other adjoining Member State.

#### **Article 28: Identification of Officers**

Officers of the adjoining Member States may wear their official uniform or visible distinctive insignia and shall at all times visibly display their officially issued identification badges in the common control zone.

#### **Article 29: Carrying and use of arms**

- 1) Officers of the adjoining Member States may, in the exercise and for purposes of their official functions and duties in the common control zone, carry appropriate arms where such is authorized under their national laws.
- 2) Law enforcement agencies with responsibilities in terms of Article 23 of this Act may, for purposes of executing such enforcement responsibilities, carry appropriate arms as authorized in their national laws, in the part of the common control zone over which they have jurisdiction in terms of this Act.
- 3) Notwithstanding the provisions of paragraph 2 of this Article in circumstances where a show or use of arms is required, the Officers of an adjoining Member State may enlist the assistance

of the law enforcement agents of the other Member State, which assistance shall not be unreasonably denied. The rules governing the nature and extent of such assistance shall be part of the Rules of Operation issued in terms of Article 23(3) of this Act.

- 4) Nothing in this Act shall be construed as limiting the carriage of appropriate arms by officers of an adjoining Member State in that State's exclusive use areas within the common control zone.
- 5) The use of arms in the common control zone in terms of this Article shall be strictly restricted to circumstances requiring self defensive action or action in defense of other persons as provided for in the laws of each adjoining Member State.

#### **Article 30: Communication and liaison at joint border post**

- 1) Each adjoining Member State shall appoint an Officer serving at the joint border post to act as the focal point and main contact person for communication with the competent authorities of the other adjoining Member State.
- 2) Nothing in this Article shall prevent Officers representing individual border control agencies of an adjoining Member State from collaborating and consulting with Officers from their counterpart and other agencies of the other adjoining Member State during the course of the day-to-day performance of their functions and duties in the common control zone.

#### **Article 31: Protection and assistance to Officers**

- 1) An adjoining Member State shall grant the same protection and assistance as it grants its own Officers, to Officers of the other adjoining Member State in the exercise of their functions and duties, in the common control zone areas where it has exclusive responsibility and jurisdiction in terms of Article 23 of this Act.
- 2) In the circumstances anticipated in paragraph 1 of this Article, the laws of an adjoining Member State relating to the protection of its own Officers in the exercise of their functions shall apply equally to the punishment of offences committed against Officers of the other adjoining Member State in the exercise of their functions.
- 3) The Officers of an adjoining Member State shall however, in the course of their functions in the common control zone in terms of this Act, be immune from the jurisdiction of the other adjoining Member State.

#### **Article 32: Compensation for loss or injury**

Any claim for compensation for loss, injury or damage caused by or to Officers of the adjoining Member States in the course of their functions in the common control zone shall be subject to the laws and jurisdiction of their respective adjoining Member States as if the circumstance giving rise to the claim had occurred in the respective territories of the adjoining Member States.

#### **Article 33: Prosecution for offences**

Officers of the adjoining Member States may be prosecuted for any offence committed in the common control zone in the course of their functions. In such cases, they shall come under the jurisdiction of their own Member State, as if the offences had been committed in such Member State.

#### **Article 34: Investigation of offences, witnesses**

- 1) The law enforcement agents of an adjoining Member State with exclusive responsibilities and jurisdiction in certain areas in the common control zone shall take such steps as deemed

necessary to investigate, record and communicate to the competent authorities of the other adjoining Member State all the particulars and evidence of any alleged offence committed in such areas in the common control zone by an Officer of the other adjoining Member State as contemplated in Article 33 above. The laws of the other adjoining Member State to which the said Officer belongs shall apply to such offences.

- 2) The Officers of an adjoining Member State shall be competent witnesses in proceedings of any offences committed in the common control zone, by an Officer of the other adjoining Member State or members of the public, to which they are investigating officers or percipient witnesses where such offences are tried before the courts of competent jurisdiction or other quasi-legal or administrative structures of the other adjoining Member State.

## **CHAPTER VII: FACILITIES IN THE COMMON CONTROL ZONE**

### **Article 35: Provision of facilities in the common control zone.**

The Management Authority, appointed in terms of Article 53 below, shall provide each adjoining Member State comparable office and other accommodation within the joint border post facilities located in the common control zone on such terms and conditions relating to all costs of such occupation and maintenance of such facilities as shall be specified by the Community. It shall be the intent of the Community to equitably allocate the facilities to adjoining Member States on a need basis. Staff facilities designed for shared occupation and use by the adjoining Member States shall be shared between the Officers of the adjoining Member States.

### **Article 36: Free transfer of equipment for official use**

Subject to proper declarations being made to the Management Authority and appropriate inventories being kept, all equipment which is necessary to enable the Officers of the adjoining Member States to carry out their functions in the common control zone shall be freely transferable within the control zone and shall not be regarded as imports or exports on entry or exit.

### **Article 37: Communication links to own territory**

- 1) The Officers of the adjoining Member States shall, whilst exercising their functions in the common control zone, be authorized to communicate with their national authorities and to establish such communication links to their own territories as shall be required for this purpose including but not limited to the extension of their local telecommunication and other networks into the common control zone.
- 2) To this end, the authorities of the State of location shall, where necessary, assist the Officers of the adjoining Member State to obtain telecommunications and other communication services subject to commercial costs and conditions normally prevailing.

### **Article 38: Harmonization of structures and facilities**

- 1) The Community shall harmonize the structures and facilities in the common control zones so as to achieve uniformity to the extent practically possible, through coordinated designs and procurement of related construction, maintenance and management services.
- 2) The Community shall consult both public and private sector stakeholders of Member States for input as to their requirements in the common control zones.

### **Article 39: Public use facilities**

Notwithstanding any contrary provisions in this Act, the Community shall ensure that adequate and appropriate facilities are provided within the common control zones to the public that utilize the joint border post including, but not limited to, sanitary, banking and other essential facilities.

## CHAPTER VIII: CONDUCT OF FORWARDING AGENTS

### Article 40: Access to common control zones by forwarding agents

Forwarding agents of adjoining Member States shall be granted appropriate access to the common control zones for official purposes. In carrying out their functions, they shall not be required to produce any passports or visas, but shall access the control zones by way of appropriately issued identity and status cards.

### Article 41: Vetting, registration, names and particulars

Each Member State shall, in consultation with the national forwarding agents associations, agree on the criteria for the vetting, registration and the numbers of forwarding agents that shall be afforded access to the common control zones in terms of this Act. The competent authorities of each Member State shall submit, in writing, the names and full particulars of the forwarding agents that will be working within the common control zone at any joint border post. In the event of any changes, information of such changes shall be communicated promptly to the other adjoining Member State.

### Article 42: Identification of forwarding agents

Forwarding agents may wear their agency uniforms and shall at all times visibly display their officially issued identification badges in the common control zones.

### Article 43: Laws applicable in the common control zone

- 1) Forwarding agents shall, at all times in the exercise of their functions in the common control zones, provide their services in accordance with and be subject to the laws of the adjoining Member State in which they are registered.
- 2) Notwithstanding the provisions of this Article, forwarding agents shall be subject to the jurisdiction of the adjoining Member State with exclusive responsibilities and jurisdiction in certain areas in the common control zone for any non-border control criminal acts or omissions in such areas.

### Article 44: Facilities to be allocated in common control zones

#### **Article 47: Transfer of money**

Forwarding agents of the adjoining Member States shall freely transfer any sums of money received for facilitation services in the common control zone to their own territory subject to their adjoining Member State's exchange control laws and regulations.

#### **Article 48: Access to electronic control systems**

For purposes of simplifying and expediting the clearance of commercial traffic through the joint border post, the adjoining Member States shall migrate from manual entry systems to electronic control systems that are easily accessible for use by the forwarding agents and introduce appropriate and mandatory preclearance procedures for cargo.

### **CHAPTER IX: INSTITUTIONAL ARRANGEMENTS**

#### **Article 49: Community oversight institution and responsibilities**

- 1) The Commission shall coordinate and monitor the establishment and implementation of the joint border posts concept within the Community.
- 2) Without prejudice to the generality of paragraph 1 of this Article the Commission shall:
  - a) coordinate the establishment of joint border posts within the Community to ensure uniformity of approach in the joint border post concept between adjoining Member States;
  - b) monitor the utilization of joint border posts at the various borders within the Community to ensure full compliance with the provisions of this Act;
  - c) set specific programs for the establishment and implementation of joint border controls at existing and future border posts within the Community;
  - d) initiate policies for the improvement of the efficiencies of Community joint border posts and any related trade facilitation matters;
  - e) set and monitor performance standards for which bilateral joint border post institutions shall be held responsible and accountable;
  - f) resolve any issues referred to the Commission by the Joint Committees to be established in terms of Article 50 of this Act;
  - g) account and be responsible to the Council through the appropriate institutions of the Community for all issues relating to the provisions of this Act;
  - h) in the exercise of its functions in terms of this Act, be subject to the general direction of the Council and perform such other functions as may be prescribed by the Council.
  - i) in the exercise of its functions in terms of this Act, the Commission may engage the services of any such persons from within or outside the Community as it deems appropriate on any matter under its responsibility.

#### **Article 50: Establishment and composition of the Joint Committees**

- 1) A Joint Committee comprising equal numbers from each adjoining Member State of representatives of the competent authorities and representatives of forwarding agents of the adjoining Member States shall be established to oversee the implementation and operations of joint border posts between any adjoining Member States.
- 2) The adjoining Member States shall mutually agree as to the level of representation and shall determine the number of members of the Joint Committee. Each adjoining Member State shall be responsible for the nomination of its representatives who shall constitute the Joint Committee in accordance with its existing procedures for such nominations.

- 3) Notwithstanding the provisions of this Article, adjoining Member States may agree in consultation with the Commission, to utilize any existing appropriate national trade facilitation structures to carry out the responsibilities of the Joint Committee.

#### **Article 51: Responsibilities of the Joint Committees**

- 1) The Joint Committees shall determine the administrative measures necessary for the implementation of the joint border posts concept by adjoining Member States. They shall resolve any difficulties that may arise from such implementation including the power to constitute bilateral administrative and operations sub-committees comprising Officers of the adjoining Member States directly involved in undertaking border controls at the joint border posts.
- 2) Operatives of the forwarding agents at the joint border posts shall be coopted into such administrative and operations sub-committees to ensure valuable contribution and feedback from the relevant private sector stakeholders.
- 3) Each Joint Committee shall monitor and assess the implementation of joint border posts concept under its jurisdiction and routinely report on progress and other relevant matters to the Commission through appropriate national and Community structures.

#### **Article 52: Meetings and procedures of the Joint Committees**

- 1) The Joint Committees shall meet as often as required and alternate the locality of the meetings between the territories of the adjoining Member States, unless agreed otherwise.
- 2) The meetings of the Joint Committees shall be chaired by an Officer representing the adjoining Member State in whose territory the meeting is held, unless otherwise agreed.
- 3) The Joint Committees shall regulate their own rules of procedure at such meetings.
- 4) The Joint Committees shall adopt their decisions by consensus. In the event of failure to reach consensus, the Joint Committees shall first refer the matter for mutual resolution to existing bilateral conflict resolution mechanisms before referring the matter for resolution by the Commission.

#### **Article 54: Responsibilities of a Management Authority**

- 1) Without limiting the generality of this Article, the responsibilities and powers of a Management Authority may include general administration of the joint border post, maintenance of the facilities, provision and control of security services, provision and maintenance of operational and administrative equipment and any other responsibilities the Community may deem appropriate.
- 2) The scope, nature, powers, methods of carrying out such responsibilities and related costs shall be fully defined in the specific legal instrument appointing such Management Authority in terms of Article 53 of this Act.

### **CHAPTER XI: GENERAL AND FINAL PROVISIONS**

#### **Article 55: Temporary Measures**

- 1) This Act shall not affect the rights of any Member State to take temporary measures in the interests of defence and security, public safety, public order, economic interests of the Member State, public morality, public health, and any other circumstances of a similar nature.
- 2) Such temporary measures may include, but not limited to, the reversal of the sequence or location of controls or the temporary closure of the joint border post by such Member State.
- 3) The adjoining Member State taking any temporary measures in terms of paragraph 1 of this Article shall, prior to taking such temporary measures, inform the other adjoining Member State without delay through the exchange of diplomatic notes and refer the matter to the relevant Joint Committee for the expeditious resolution of the circumstances leading to the temporary measures.
- 4) In circumstances where prior notification shall not be practical, the adjoining Member State taking such temporary measures shall simultaneously inform the other adjoining Member State of the temporary measures imposed through the exchange of diplomatic notes and refer the matter to the relevant Joint Committee for the expeditious resolution of the circumstances leading to the temporary measures.
- 5) Each adjoining Member State shall take responsibility to expeditiously inform its Officers working in the affected control zones about the temporary measures imposed.

#### **Article 56: Dispute Resolution**

- 1) Any dispute that may arise in the interpretation, application and implementation of this Act and any subsidiary Regulations shall be resolved by and between the Member States amicably and in the spirit of friendship and co-operation.
- 2) The Member States shall, in resolving such disputes, primarily be guided by the need to give effect to the paramount objectives of this Act.
- 3) Any dispute between the Member States in terms of this Act that remains unresolved for a period of more than one hundred and eighty (180) days from the time such dispute is declared shall be referred for settlement in accordance with the provisions of the dispute settlement procedure stipulated in Article 76 of the Treaty.

#### **Article 57: Amendment and review**

- 1) Any Member State, the Council of Ministers and the Commission may submit proposals for the amendment and review of this Act.

- 2) All amendment and revision proposals shall be submitted to the Commission for onward communication to the Member States not later than thirty (30) days after reception. The Council of Ministers shall examine the amendment and revision proposals on expiry of the three (3) months period that is ordinarily granted to the Member States to enter their observations.
- 3) The amendment and revision shall be adopted by the Council of Ministers and submitted to the Authority of Heads of State and Government for approval and signature. Such amendments and revisions shall enter into force, in conformity with the provisions of Article 58 of this Act.

#### **Article 58: Entry into force**

1. This Supplementary Act shall enter into force upon signature and publication. Consequently, signatory Member States shall embark on the implementation of its provisions once it enters into force.
2. This Supplementary Act shall be attached as an annex to the ECOWAS Treaty to which it shall be an integral part.

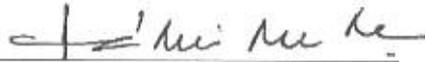
#### **Article 59: Publication**

1. This Supplementary Act shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature by the Heads of State and Government.
2. It shall also be published by each Member State in its Official Journal within the same time-frame as that specified above, after its notification by the Commission.

#### **Article 60: Depository Authority**

This Act shall be deposited with the ECOWAS Commission which shall transmit certified true copies thereof to all the Member States and shall register it with the African Union, the United Nations Organizations and such other organizations as may be determined by Council, in accordance with Articles 83, 84 and 85 of the Treaty.

IN WITNESS WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT OF THE



**H.E. Jose Maria Pereira NEVES**  
Prime Minister and Head of the Government,  
of the Republic of CAPE VERDE



**H. E. Isatou NJIE SAIDY**

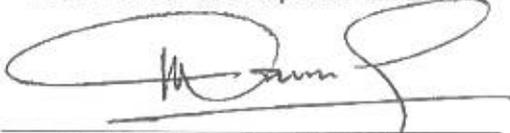
Vice-President of The Gambia, for and on  
behalf of the President of the Republic

**H.E. Alpha CONDE**

President of the Republic of  
GUINEA



**H.E. Mrs. Ellen JOHNSON-SIRLEAF**  
President of the Republic LIBERIA



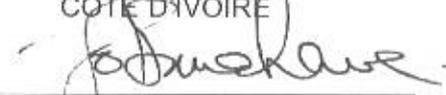
**H.E. Mahamadou ISSOUFOU**  
President of the Republic of NIGER



**H. E. Mankeur NDIAYE**  
Minister of Foreign Affairs and  
Senegalese in Diaspora, For and on  
behalf of the president of the Republic



**H. E. Alassane OUATTARA**  
President of of the Republic of  
COTE D'IVOIRE



**H.E. John Dramani MAHAMA**  
President of the Republic of GHANA



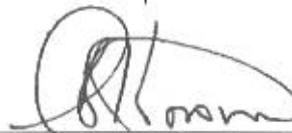
**H.E. Manusi Serifo NHAMADJO**  
Interim President of the  
Republic of GUINEA BISSAU



**H. E. Prof Dioncounda TRAORE**  
Interim President of the  
Republic of MALI



**H. E. Dr. Goodluck Ebele JONATHAN, GCFR**  
President, Commander-in-Chief,  
of the Armed Forces of the  
Federal Republic of NIGERIA,



**H. E. Ernest Bai KOROMA**  
President of the Republic of SIERRA LEONE



**H. E. Elliott OHIN**  
Senior Minister of Foreign Affairs and Cooperation  
For and on behalf of the President of the Togolese Republic

## **PART III**

### **PROTOCOLS AND SUPPLEMENTARY ACTS ON MECHANISM FOR CONFLICT PREVENTION, DEMOCRACY AND GOOD GOVERNANCE**

CHAPTER ONE

**PROTOCOL A/P.1/12/99  
RELATING TO THE MECHANISM FOR CONFLICT  
PREVENTION, MANAGEMENT, RESOLUTION,  
PEACEKEEPING AND SECURITY**

## PREAMBLE

**WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS);**

MINDFUL OF the ECOWAS Revised Treaty signed in Cotonou on 23rd July 1993 notably its Article 58;

MINDFUL OF the relevant provisions of the Charter of the Organisation of African Unity (OAU);

MINDFUL OF the United Nations Charter, with particular reference to its Chapter VI, VII and VIII;

MINDFUL OF the provisions of Protocols A/PI/5/79, A/SP2/7/85, A/SP1/7/86, A/SP1/6/88, A/SP2/5/90 relating to the free movement of persons, the right of residence and establishment;

RECALLING the Protocol on Non-Aggression signed in Lagos on 22nd April 1978 and the Protocol on Mutual Assistance in Defence signed in Freetown on 29th May 1981, notably our resolve to give mutual aid and assistance for defence against any armed threat or aggression on a Member State;

CONSIDERING the Framework Agreement of the Protocol on Non-Aggression and Assistance in Defence (ANAD) signed in Abidjan on 9th June 1977;

CONSIDERING ALSO the Protocol on the enforcement of the above-mentioned Framework Agreement signed in Dakar on 14 December 1981, as well as the subsequent Protocols;

REAFFIRMING our commitment to the ECOWAS Declaration of Political Principles adopted in Abuja on 6th July 1991, on freedom, people's rights and democratisation;

RECALLING the relevant provisions of the ECOWAS Conventions on Mutual Assistance in Criminal Matters and on Extradition, signed in Dakar on 29 July 1992 and in Abuja on 6th August 1994, respectively;

RECALLING ALSO the Cairo Declaration of 29th June 1993 on the establishment of a Mechanism for Conflict Prevention, Management and Resolution in Africa adopted by the 29 Session of the OAU Conference of Heads of State and Government;

CONCERNED about the proliferation of conflicts which constitute a threat to the peace and security in the African continent, and undermines our efforts to improve the living standards of our peoples;

CONVINCED OF the need to develop effective policies that will alleviate the suffering of the civil population, especially women and children, and, restore life to normalcy after conflicts or natural disasters, and desirous of making further efforts in the humanitarian sphere;

CONSCIOUS OF THE FACT that good governance, the rule of law and sustainable development are essential for peace and conflict prevention;

RECALLING the Declaration of the moratorium on the Importation, Exportation and Manufacture of Light Weapons, adopted by the 21st Session of the Authority of Heads of State and Government of ECOWAS, held in Abuja on 30 and 31st October, 1998;

RECALLING also the conclusions of the meeting of ECOWAS Ministers of Foreign Affairs on the effective implementation of PCASED, held in Bamako on 24th March, 1999;

CONVINCED that cross-border crimes, the proliferation of small arms and all illicit trafficking contribute to the development of insecurity and instability and jeopardise the economic and social development of the sub-region;

AWARE that these phenomena constitute serious social and economic problems which can only be resolved within the framework of increased and well-coordinated multilateral cooperation;

RECOGNISING the need to make the relevant Treaties and Protocols more adequate, effective and pragmatic;

DESIRING to consolidate our achievements in the resolution of conflicts through the ECOWAS Cease-fire Monitoring Group (ECOMOG);

RECALLING our Decision A/DEC.11/10/98 adopted in Abuja on 31st October 1998, relating to the ECOWAS Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security;

DESIROUS to establish an operational structure for the implementation of the said Decision;

#### HEREBY AGREE ON THE FOLLOWING:

#### DEFINITIONS

For the purposes of this Protocol;

**"Treaty"** means the revised Treaty of the Economic Community of West African States (ECOWAS) signed in Cotonou on 24 July 1993;

**"Community"** means the Economic Community of West African States referred to under Article 2 of the Treaty;

**"Authority"** means the Authority of Heads of State and Government of the Economic Community of West African States established by Article 7 of the Treaty;

**"Mediation and Security Council"** means the Mediation and Security Council as defined by Article 8 of this Protocol;

**"Defence and Security Commission"** means the Defence and Security Commission as defined in Article 18 of this Protocol;

**"Executive Secretary"** means the ECOWAS Executive Secretary appointed in accordance with Article 18 of the Treaty;

**"Force Commander"** means the Force Commander appointed in accordance with the provision of Article 33 of this Protocol;

**"Trans-border crime"** refers to all crimes organised or perpetrated by individuals, organisations or networks of Local and/or Foreign criminals operating beyond the national boundaries of a Member State, or acting in complicity with associates based in one or several States adjoining the country where the crimes are actually committed or having any connection with any Member State;

**"Member State in crisis"** refers both to a Member State experiencing an armed conflict as well as a Member State facing serious and persisting problems or situations of extreme tension which, if left unchecked, could lead to serious humanitarian disaster or threaten peace and security in the sub-region or in any Member State affected by the overthrow or attempted overthrow of a democratically elected government

## **CHAPTER I ESTABLISHMENT, PRINCIPLES AND OBJECTIVES OF THE MECHANISM**

### **Article 1 Establishment**

There is hereby established within the Economic Community of West African States (ECOWAS), a mechanism for collective security and peace to be known as "Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security".

### **Article 2 Principles**

Member States reaffirm their commitment to the principles contained in the Charters of the United Nations Organisation (UNO) and the Organisation of African Unity (OAU) and to the Universal Declaration of Human Rights, as well as to the African Charter on Human and People's Rights, particularly the following fundamental principles:

- (a) that economic and social development and the security of peoples and States are inextricably linked;
- (b) promotion and reinforcement of the free movement of persons, the right of residence and establishment which contribute to the reinforcement of good neighbourliness;
- (c) promotion and consolidation of a democratic government as well as democratic institutions in each Member State;
- (d) protection of fundamental human rights and freedoms and the rule of international humanitarian laws;
- (e) equality of sovereign States;
- (f) territorial integrity and political independence of Member States.

### **Article 3 Objective of the Mechanism**

The objectives of the Mechanism shall be as follows:

- (a) prevent, manage and resolve internal and inter-State conflict under the conditions provided in Paragraph 46 of the Framework of the Mechanism ratified as per Decision A/DEC.11/10/98 of 31st October 1998;

- (b) implement the relevant provisions of Article 58 of the Revised Treaty;
- (c) implement the relevant provisions of the Protocols on Non-Aggression, Mutual Assistance in Defence, Free Movement of Persons, the Right of Residence and Establishment;
- (d) strengthen cooperation in the areas of conflict prevention, early-warning, peace-keeping operations, the control of cross-border crime, international terrorism and proliferation of small arms and anti-personnel mines;
- (e) maintain and consolidate peace, security and stability within the Community;
- (f) establish institutions and formulate policies that would allow for the organisation and coordination of humanitarian relief missions;
- (g) Promote close cooperation between Member States in the areas of preventive diplomacy and peace-keeping;
- (h) constitute and deploy a civilian and military force to maintain or restore peace within the sub-region, whenever the need arises;
- (i) set up an appropriate framework for the rational and equitable management of natural resources shared by neighbouring Member States which may be causes of frequent inter-State conflicts;
- (j) protect the environment and take steps to restore the degraded environment to its natural state;
- (k) safeguard the cultural heritage of Member States;
- (l) formulate and implement policies on anti-corruption, money-laundering and illegal circulation of small arms.

## **CHAPTER II INSTITUTIONS OF THE MECHANISM**

### **Article 4 Institutions**

The institutions of the Mechanism shall be:

- (a) The Authority;
- (b) The Mediation and Security Council;
- (c) The Executive Secretariat;
- (d) Any other institution as may be established by the Authority.

### **Article 5 Composition and Meetings of the Authority**

1. The Authority is composed of Heads of State and Government of Member States as stipulated in Paragraph 1, Article 7 of the Revised Treaty.
2. The Authority shall meet as often as necessary.

**Article 6**  
**Functions**

1. The Authority shall be the Mechanism's highest decision-making body.
2. It shall have powers to act on all matters concerning conflict prevention, management and resolution, peace-keeping, security, humanitarian support, peace-building, control of cross-border crime, proliferation of small arms, as well as all other matters covered by the provisions of this Mechanism.

**Article 7**  
**Delegation of Powers**

Without prejudice to its wide-ranging powers as provided under Article 9 of the Treaty and in Article 6 above, the Authority hereby mandates the Mediation and Security Council to take, on its behalf, appropriate decisions for the implementation of the provisions of this Mechanism.

**Article 8**  
**Composition of the Mediation and Security Council**

1. The Mediation and Security Council shall comprise nine (9) Member States of which seven (7) shall be elected by the Authority. The other two (2) members shall be the current chairman and the immediate past chairman of the Authority, each of whom shall have an automatic right to membership of the Mediation and Security Council.
2. The elected Members of the Mediation and Security Council shall serve for two (2) years renewable.

**Article 9**  
**Quorum and Decisions**

1. The meeting of the Mediation and Security Council shall be properly constituted when at least two-thirds of its Members are present.
2. Decisions of the Mediation and Security Council shall be taken by a two-thirds majority vote of Members present.

**Article 10**  
**Functions**

1. The Mediation and Security Council shall take decisions on issues of peace and security in the sub-region on behalf of the Authority. It shall also implement all the provisions of this Protocol.
2. Pursuant to the provisions of Article 7 of this Protocol and Paragraph 1 above, the Mediation and Security Council shall:
  - (a) decide on all matters relating to peace and security;
  - (b) decide and implement all policies for conflict prevention, management and resolution, peace-keeping and security;
  - (c) authorise all forms of intervention and decide particularly on the deployment of political and military missions;
  - (d) approve mandates and terms of reference for such missions;

- (e) review the mandates and terms of reference periodically, on the basis of evolving situations;
- (f) on the recommendation of the Executive Secretary, appoint the Special Representative of the Executive Secretary and the Force Commander.

#### **Article 11**

##### ***Meetings of the Mediation and Security Council***

1. Deliberations of the Mediation and Security Council shall be held at three (3) levels: Heads of State and Government, Ministerial and Ambassadorial levels.
2. All meetings of the Mediation and Security Council shall be presided over by the Member State elected as the current Chairman of the Authority.

#### **Article 12**

##### ***Meeting at the Level of Heads of State and Government***

1. The Heads of State and Government of the Mediation and Security Council shall meet at least twice a year in ordinary sessions. Extraordinary sessions may be convened by the Chairman when the need arises or at the request of a simple majority of the Members of the Council.
2. The Heads of State and Government of the Mediation and Security Council shall take final decisions on all issues under their authority and competence, including field missions and approve the terms of reference, for such missions.

#### **Article 13**

##### ***Meeting at the Ministerial Level***

1. The Ministers of Foreign Affairs, Defence, Internal Affairs and Security of the Mediation Security Council shall meet at least once every three (3) months to review the general political and security situation in the sub-region. They may also meet when the need arises.
2. The recommendations emanating from the Ministerial meetings shall be submitted to the member Heads of State and Government of the Mediation and Security Council.

#### **Article 14**

2. The role of the Executive Secretary shall include the following:
  - (a) recommend the appointment of the Special Representative and the Force Commander for approval by the Mediation and Security Council;
  - (b) appoint Members of the Council of Elders;
  - (c) have responsibility for political, administrative and operational activities and provide logistic support for the mission;
  - (d) prepare periodic reports on activities of the Mechanism for the Mediation and Security Council and Member States;
  - (e) deploy fact-finding and mediation missions, on the basis of his/her assessment of the existing situation;
  - (f) convene, in consultation with the Chairman of the Authority, all meetings of the Mediation and Security Council, the Council of Elders, and the Defence and Security Commission;
  - (g) Implement all decisions of the Mediation and Security Council.
3. The ECOWAS Secretariat shall service the Mediation and Security Council and the Defence and Security Commission.
4. In implementing the provisions of this Mechanism, the Executive Secretary shall be assisted by the Deputy Executive Secretary in Charge of Political Affairs, Defence and Security.

**Article 16**  
***The Deputy Executive Secretary***

1. Under the direction of the Executive Secretary, the Deputy Executive Secretary in charge of Political Affairs, Defence and Security shall initiate and undertake all activities relating to the implementation of the Mechanism.
2. The office of the Deputy Executive Secretary for Political Affairs, Defence and Security, shall be headed by a statutory officer appointed in accordance with Paragraph 4 (a), Article 18 of the Treaty. He shall have under his supervision appropriate departments, divisions and sections, as may be necessary, including:
  - (a) the Department of Political Affairs;
  - (b) the Department of Humanitarian Affairs;
  - (c) the Department of Defence and Security;
  - (d) the Observation and Monitoring Centre; and
  - (e) such other departments as may be established by the Council of Ministers on the recommendation of the Mediation and Security Council.

**CHAPTER III**  
**SUPPORTING ORGANS OF THE INSTITUTIONS OF THE MECHANISM**

In carrying out their missions, the Institutions stipulated in Article 4 shall be assisted by the organs enumerated in Article 17 of this Protocol

**Article 17**  
**Organs**

The following organs are hereby established to assist the Mediation and Security Council:

- (a) The Defence and Security Commission;
- (b) The Council of Elders;
- (c) ECOWAS Cease-fire Monitoring Group (ECOMOG).

**Article 18**  
**Composition of the Defence and Security Commission**

1. The following representatives from Member States shall constitute the Defence and Security Commission:
  - (a) Chiefs of Defence Staff or equivalent;
  - (b) Officers responsible for Internal Affairs and Security;
  - (c) Experts of the Ministry of Foreign Affairs;
  - (d) Depending on the agenda, Heads of any of the following service may be invited:
    - (i) Immigration;
    - (ii) Customs;
    - (iii) Drug/Narcotic Agencies;
    - (iv) Border Guards; and
    - (v) Civil Protection Force.

**Article 19**  
**Functions**

1. The Defence and Security Commission shall examine all technical and administrative issues and assess logistics requirements for peace-keeping operations. It shall assist the Mediation and Security Council in:

- (a) formulating the mandate of the Peace-keeping Force;

2. These Personalities shall be requested by the Executive Secretary or the Mediation and Security Council, whenever the need arises, to deal with a given conflict situation.
3. Whenever the circumstances require, the Executive Secretary shall assemble eminent personalities from the approved list who shall now constitute the Council of Elders.
4. The composition and mandate of the Council of Elders shall be defined by the Executive Secretary on the basis of the mission to be carried out.
5. Members of the Council of Elders selected to deal with a given situation shall report to the Executive Secretary.
6. The Executive Secretary shall report to the Mediation and Security Council on the initiatives taken in conformity with the provisions of Paragraphs 2 and 3 of this Article.
7. Members of the Council of Elders shall be neutral, impartial and objective in carrying out their mission.

**Article 21**  
**Composition of ECOMOG**

The ECOWAS Cease-fire Monitoring Group (ECOMOG) is a structure composed of several Stand-by multi-purpose modules (civilian and military) in their countries of origin and ready for immediate deployment.

**Article 22**  
**Role of ECOMOG**

ECOMOG is charged, among others, with the following missions:

- (a) Observation and Monitoring;
- (b) Peace-keeping and restoration of peace;
- (c) Humanitarian intervention in support of humanitarian disaster;
- (d) Enforcement of sanctions, including embargo;
- (e) Preventive deployment;
- (f) Peace-building, disarmament and demobilisation;
- (g) Policing activities, including the control of fraud and organised crime;
- (h) Any other operations as may be mandated by the Mediation and Security Council.

**CHAPTER IV**  
**SUB-REGIONAL PEACE AND SECURITY OBSERVATION SYSTEM**  
**(EARLY WARNING)**

A sub-regional peace and security observation system known as the Early Warning or "The System" is hereby established for the purposes of conflict prevention and in accordance with Article 58 of the Revised Treaty. The System shall consist of:

- a. An Observation and Monitoring Centre located at the Secretariat;
- b. Observation and Monitoring Zones within the sub-region.

**Article 23**  
**Observation and Monitoring Centre**

1. The Observation and Monitoring Centre shall be responsible for data collection and analyses and preparation of reports for the use of the Executive Secretariat.
2. The Centre shall collaborate with the United Nations Organisation, the Organisation of African unity, research centres and all other relevant international regional and sub-regional organisations.

**Article 24**  
**Observation and Monitoring Zones**

1. Member States shall be divided into zones on the basis of proximity, ease of communication and efficiency. Each zone shall be identified by a number and each shall have a zonal headquarters. The following four (4) Observation and Monitoring Zones are hereby created:

<b>ZONE NUMBER</b>	<b>COUNTRIES</b>	<b>ZONAL CAPITAL</b>
1.	Cape Verde The Gambia Guinea-Bissau Mauritania Senegal	- Banjul
2.	Burkina Faso Cote d'Ivoire Mali Niger	- Ouagadougou
3.	Ghana Guinea Liberia Sierra Leone	- Monrovia
4.	Benin Nigeria Togo	- Cotonou

**CHAPTER V**  
**APPLICATION OF THE MECHANISM**

**Article 25**  
**Conditions For Application**

The Mechanism shall be applied in any of the following circumstances:

- (a) In cases of aggression or conflict in any Member State or threat thereof;
- (b) In case of conflict between two or several Member States;
- (c) In case of internal conflict:
  - (i) that threatens to trigger a humanitarian disaster, or
  - (ii) that poses a serious threat to peace and security in the sub-region;
- (d) In event of serious and massive violation of human rights and the rule of law;
- (e) In the event of an overthrow or attempted overthrow of a democratically elected government;
- (f) Any other situation as may be decided by the Mediation and Security Council.

**Article 26**  
**Authority to Initiate**

The Mechanism shall be put into effect by any of the following:

- (a) Upon the decision of the Authority;
- (b) Upon the decision of the Mediation and Security Council;
- (c) At the request of a Member State;
- (d) On the initiative of the Executive Secretary;
- (e) At request of the Organisation of African Unity or the United Nations.

**Article 27**  
**Procedure**

The Mechanism shall be applied according to any of the following procedures:

- (a) The Executive Secretary shall inform Member States of the Mediation and Security Council and, in consultation with the Chairman, take all necessary and urgent measures;
- (b) The Mediation and Security Council shall consider several options and decide on the most appropriate course of action to take in terms of intervention. Such options may include recourse to the Council of Elders, the dispatch of fact-finding missions, political and mediation missions or intervention by ECOMOG;
- (c) The Mediation and Security Council shall issue a mandate authorising the Executive Secretary to set up a mission and define its terms of reference;
- (d) Where necessary, the Mediation and Security Council shall appoint the principal officers, such as the Special Representative of the Executive Secretary and the ECOMOG Force Commander.
- (e) The Chairman of the Mediation and Security Council shall submit a report on the situation to the Organisation of African Unity and the United Nations;
- (f) The Executive Secretariat shall mobilise all the resources required for the operations.

**CHAPTER VI  
CONFLICT MANAGEMENT**

**Article 28  
Composite Stand-by Units**

1. Member States hereby agree to make available to ECOMOG units adequate resources for the army, air force, navy, gendarmerie, police and all other military, paramilitary or civil formations necessary for the accomplishment of the mission.
2. Each Member State shall provide ECOMOG with a unit the size of which shall be determined after consultation with each Member State.
3. The strengths of these units shall be reviewed according to the situation on the ground.

**Article 29  
Mandates of the Force and Missions of Deployed Units**

Whenever the force is deployed, the strength, mandates and missions of the units shall vary according to the evolving situation on the ground.

**Article 30  
Training and Preparation of the Composite Stand-by Units**

1. The Executive Secretary, through the departments concerned and, in consultation with Member States, shall contribute to the in-training of civilian and military personnel that shall be part of the stand-by units in various fields, particularly in international humanitarian law and human rights.
2. In this regard, he shall:
  - (a) support the development of common training programmes and instruction manuals for national schools and training centres;
  - (b) organise training and proficiency courses for personnel of the units in the regional centres in Cote d'Ivoire and Ghana;
  - (c) work towards the integration of the

**Article 32**  
**Appointment and Functions of the Special Representative**

1. On the recommendation of the Executive Secretary, the Mediation and Security Council shall appoint a Special Representative for each Operation undertaken by ECOMOG.
2. The principal role and functions of the Special Representative shall include the following:
  - (a) Serve as the Chief of the Mission and shall be responsible for the political orientation of the mission;
  - (b) Direct peace-keeping activities and initiate political and diplomatic negotiations with the parties, neighbouring States and other Governments involved in conflict resolution;
  - (c) Brief troop-contributing States and other States on the situation and operations of the mission as and when required;
  - (d) Coordinate activities of the sub-regional and international organisations including NGOs involved in humanitarian relief and peace-building activities in the mission area. Where necessary, he shall be assisted by a Deputy responsible for humanitarian affairs;
  - (e) Maintain constant contact with and submit regular reports to the Executive Secretary.

**Article 33**  
**Appointment and Functions of the ECOMOG Force Commander**

1. On the recommendation of the Executive Secretary an ECOMOG Force Commander shall be appointed by the Mediation and Security Council and in consultation with the Defence and Security Commission for each operation.
2. The role and functions of the ECOMOG Force Commander shall include the following:
  - (a) He shall be responsible for the efficiency of operational, administrative and logistical plans of the mission;
  - (b) He shall issue instructions to contingent commanders for all operational activities;
  - (c) He shall ensure the security of personnel and materiel of humanitarian organisations' in the mission area;
  - (d) The ECOMOG Force Commander is accountable to the Executive Secretary, through the Special Representative.

**Article 34**  
**The Chain of Command**

1. The Special Representative shall report directly to the Executive Secretary.
2. The Force Commander shall report to the Executive Secretary through his Special Representative.
3. All contingent commanders shall report directly to the Force Commander.
4. All civil units shall report directly to the Special Representative.

**Article 35**  
**Role of Member States**

In addition to their responsibilities as stipulated by the Treaty and this Protocol:

- (a) Each Member State shall immediately, upon request, release standby units with the necessary equipment and materials
- (b) Member States hereby undertake to fully cooperate with ECOWAS in carrying out the mandates of this Protocol, including all forms of assistance and support required for the Mechanism, especially as regards the free movement of ECOMOG within their territories.

**CHAPTER VII**  
**FINANCING OF THE MECHANISM**

**Article 36**  
**Funding**

1. The Executive Secretariat shall make provision in its annual budget for fund to finance activities of the Mechanism. As soon as the Protocol governing conditions for application of the Community Levy enters into force, a percentage of the said levy shall be earmarked for these activities.
2. Special requests for funds shall be made to the United Nations and other international agencies.
3. Funds for operations may also be raised from the OAU voluntary contributions and grants from bilateral and multilateral sources.

**Article 37**  
**Pre-Financing**

1. The States contributing contingents may be invited to bear the cost of operations during the first three (3) months.
2. ECOWAS shall refund the expenditure incurred by the States within a maximum period of six (6) months and then proceed to finance the operations.

**Article 38**  
**Logistical Support**

The organisation of logistics, including troop transport, shall be determined by the Executive Secretariat in consultation with the host country and the States contributing troops.

**Article 39**  
**Remuneration and Service Conditions**

The remuneration and conditions of service of the personnel shall be determined by the Council of Ministers on the recommendation of the Mediation and Security Council.

**CHAPTER VIII**  
**HUMANITARIAN ASSISTANCE**

ECOWAS shall take active part in coordinating and conducting humanitarian assistance.

**Article 40**  
**Responsibilities of ECOWAS**

1. ECOWAS shall intervene to alleviate the suffering of the populations and restore life to normalcy in the event of crises, conflict and disaster.
2. In this regard, ECOWAS shall develop own capacity to efficiently undertake humanitarian actions for the purposes of conflict prevention and management.
3. Where the environment of a Member State is gravely devastated, appropriate steps shall be taken to rehabilitate it.
4. ECOWAS shall recognise, encourage and support the role of women in its initiatives for conflict prevention, management, resolution, peace-keeping and security.

**Article 41**  
**Cooperation with Other Organisations**

1. ECOWAS shall cooperate with the following institutions and organisations:
  - (a) national, regional NGOs and religious organisations;
  - (b) Organisation of African Unity, the United Nations and its agencies;
  - (c) other international organisations intervening in the humanitarian sector.
2. The ECOMOG unit shall be adequately equipped to undertake humanitarian activities in their mission area under the control of the Special Representative of the Executive Secretary.
3. ECOMOG shall provide assistance to all national, regional and international agencies, particularly on security issues.
4. When necessary, ECOMOG shall coordinate the activities of humanitarian agencies in the field.

**CHAPTER IX**  
**PEACE-BUILDING**

The Community hereby adopts a graduated strategy for building peace which shall be implemented as a continuum.

**Article 42**  
**ECOWAS Institutional Capacity for Peace-Building**

1. To stem social and political upheavals, ECOWAS shall be involved in the preparation, organisation and supervision of elections in Member States. ECOWAS shall also monitor and actively support the development of democratic institutions of Member States.
2. ECOWAS shall endeavour to assist Member States emerging from conflicts to increase their capacity for national, social, economic and cultural reconstruction.
3. In this regard, all ECOWAS financial institutions shall develop policies to facilitate funding for reintegration and reconstruction programmes.

**Article 43**  
**Peace-Building During Hostilities**

In zones of relative peace, priority shall be accorded to implementation of policies designed to reduce degradation of social and economic conditions arising from conflicts.

**Article 44**  
***Peace-Building at the End of Hostilities***

To assist Member States that have been adversely affected by violent conflicts, ECOWAS shall undertake the following activities:

- (a) Consolidation of the peace that has been negotiated;
- (b) establishment of conditions for the political, social and economic reconstruction of the society and governmental institutions;
- (c) Implementation of disarmament, demobilisation and reintegration programmes including those for child soldiers;
- (d) Resettlement and reintegration of refugees and internally displaced persons;
- (e) Assistance to vulnerable persons, including children, the elderly women and other traumatised groups in the society.

**Article 45**  
***Restoration of Political Authority***

In situations where the authority of government is absent or has been seriously eroded, ECOWAS shall support processes towards the restoration of political authority. Such support may include the preparation, organisation, monitoring and management of electoral process, with the cooperation of relevant regional and international organisations. The restoration of political authority shall be undertaken at the same time as the development of respect for human rights, enhancement of the rule of law and the judiciary.

**CHAPTER X**  
**SUB-REGIONAL SECURITY**

**Article 46**  
***Control of Trans-Border Crime***

1. In order to facilitate the control of trans-border crime, ECOWAS shall promote close cooperation among the security services of Member States.
2. The security services of Member States shall assist one another and ensure proper coordination for the apprehension of criminals.
3. Member States shall establish specialised departments within their ministries of Justice, Defence and Security with trained personnel and communication equipment for coordination and centralisation of cooperation matters in particular, mutual assistance in criminal matters, and extradition requests.
4. Member States shall supply the Executive Secretariat with documents setting out the details of criminal procedures in their countries. The information provided by Member States shall include a summary of the criminal process, from beginning to end, and shall outline what is needed for each State to grant a request for mutual assistance, extradition or the restraint or forfeiture of proceeds of crime. Member States shall also provide all the contract particulars for their national units and exchange information concerning any other relevant authorities and provide updated lists of the said units. The information shall be translated and circulated by the ECOWAS Secretariat to all the specialised units (Central authorities) established to handle requests and other related matters that may arise in the course of implementation.

5. With a view to strengthening national legal instruments on mutual legal assistance and extradition and making them more functional and efficient, all Member States shall harmonize their domestic law in accordance with the relevant ECOWAS Conventions on Mutual Assistance in Criminal Matters and Extradition. Member States undertake to adopt a convention to incriminate and make punishable the most commonly committed crimes in the sub-region.
6. Member States shall keep statistics, in particular, on the number of mutual legal assistance and extradition requests received and sent, as well as results obtained. There shall also be periodic meetings of the specialised departments of the Ministries of Justice, Defence and Security and the Interpol National Central Bureaux for the purpose of exchanging information on past or on-going cases and on measures aimed at improving cooperation.
7. Member States shall develop simplified restitution procedures for vehicles and other stolen objects seized by the requested State.
8. The judicial and police authorities of ECOWAS Member States shall consider the red notices published by the ICPO-Interpol at the request of an ECOWAS Member State as valid requests for provisional arrest for the purpose of Article 22 of the ECOWAS Convention on Extradition.
9. Member States shall establish a special fund for detected proceeds of crime. This fund can be used for preventive and criminal justice response to, inter alia, trans-border crime and drug trafficking. Member States shall also give consideration to the establishment of confiscated asset management offices, where required.
10. Legislation on forfeiture of proceeds of crime in Member State shall be applicable to all crimes.
11. ECOWAS shall establish a Crime Prevention and Criminal Justice Centre (ECPCJS) to serve as focal point for mutual legal assistance. The Centre shall be part of the Legal Department within ECOWAS. This ECPCJC shall assist in linking up ECOWAS Member States to non-ECOWAS Member States in Mutual Assistance Matters. It shall also serve as a supervisory power to ensure that countries implement conventions they sign.

**Article 47**  
**Coordination of Policies**

The Executive Secretary shall be responsible for the coordination and implementation of all decisions relating to sub-regional security.

**Article 48**  
**Anti-Corruption Measures**

To eradicate corruption within their territories and in the sub-region, ECOWAS and its Member States shall promote transparency, accountability and good governance.

**Article 49**  
**Measures Against Money Laundering**

The ECOWAS Secretariat and Member States shall adopt strategies for combating the problem of money laundering, by extending the scope of offences, enabling the confiscation of laundered proceeds and illicit funds and easing bank secrecy laws within and outside the sub-region.

**Article 50**  
**Control of the Proliferation of Small Arms**

While taking into account the legitimate national defence and security needs, and those of international peace-keeping operations, ECOWAS shall establish effective measures to:

- (a) control the importation, exportation, manufacture and eradicate the flow of small arms;
- (b) register and control the movement and use of legitimate arms stock;
- (c) detect, collect and destroy all illicit weapons;
- (d) encourage Member States to collect and destroy all surplus weapons.

#### **Article 51**

#### **Preventive Measures Against the Illegal Circulation of Small Arms**

1. ECOWAS shall take all the necessary measures to combat illicit trafficking and circulation of small arms. These measures shall include:
  - (a) developing a culture of peace;
  - (b) training for military, security and police forces;
  - (c) enhance weapons control at border posts;
  - (d) establishment of a database and regional arms register;
  - (e) collection and destruction of surplus and illegal weapons;
  - (f) facilitating dialogue with producers and suppliers;
  - (g) reviewing and harmonising national legislation and administrative procedures;
  - (h) Mobilising resources.
2. ECOWAS shall strengthen its institutional and operational capabilities and those of its Member States for the effective implementation of the measures mentioned in paragraph 1 above.
3. The Executive Secretariat's Department of Political Affairs, Defence and Security shall coordinate and monitor implementation of all programmes and activities and shall analyse information from the zonal headquarters.
4. In order to promote and ensure coordination of concrete measures at national level, Member States shall, in accordance with guidelines adopted by ECOWAS, establish national commissions made up of representatives of the relevant authorities and the civil society.
5. At the beginning of any ECOMOG peace-keeping operations, all dedicated light weapons and ammunition shall be declared to the Executive Secretariat so as to ensure their effective control as well as removal upon completion of the operations.
6. All weapons collected during any disarmament exercise shall be destroyed.

#### **CHAPTER XI**

#### **COOPERATION WITH THE ORGANISATION OF AFRICAN UNITY, UNITED NATIONS AND OTHER INTERNATIONAL ORGANISATIONS**

#### **Article 52 Cooperation**

1. In pursuit of its objectives, ECOWAS shall cooperate with the Organisation of African Unity (OAU), the United Nations Organisation (UNO) and other relevant international organisations.
2. In the implementation of this Mechanism, ECOWAS shall fully cooperate with the OAU Mechanism for Conflict Prevention, Management and Resolution.

3. In accordance with Chapters VII and VIII of the United Nations Charter, ECOWAS shall inform the United Nations of any military intervention undertaken in pursuit of the objectives of this Mechanism.

## **CHAPTER XII SPECIAL PROVISIONS**

### **Article 53 *Abrogation***

1. The provisions of this Protocol shall replace all the provisions of the ECOWAS Protocol relating to Mutual Assistance in Defence signed on 29th May 1981, which are in conflict with the spirit of this Protocol.
2. The provisions of the Protocol on Non-Aggression signed on 22nd April, 1978, which are incompatible with those of the present Protocol are hereby declared null and void.
3. Undertakings devolving from the provisions of this Protocol Shall not be interpreted as being against the spirit of Conventions or Agreements between one Member State and a third State; provided such Conventions and Agreements are consistent with the spirit of this Protocol, otherwise, such provisions are null and void.

### **Article 54 *Rationalisation of Sub-regional Institutions***

1. ECOWAS shall take necessary measures to rationalise all mechanisms, institutions and organs of the sub-region, having similar aims and objectives with this Mechanism.
2. To this end, ANAD may be transformed into a specialised agency of ECOWAS

## **CHAPTER XIII GENERAL AND FINAL PROVISIONS**

### **Article 55 *Amendments***

1. Any Member State may submit proposals for the amendment or revision of this Protocol.
2. Any such proposals shall be submitted to the Executive Secretary who shall notify other Member States not later than thirty days after the receipt of such proposals. Amendments or revisions shall not be considered by the Authority unless Member States shall have been given at least one month's notice thereof.
3. Amendments or revisions shall be adopted by the Authority.

### **Article 56 *Withdrawal***

1. Any Member State wishing to withdraw from this Protocol shall give a one-year written notice to the Executive Secretary who shall inform Member States thereof. At the end of the year, if such notice is not withdrawn, such a State shall cease to be a party to the Protocol.
2. During the period of one year referred to in the preceding paragraph, such a Member State shall nevertheless continue to observe the provisions of this Protocol and discharge its obligations thereunder.

**Article 57**  
**Entry into Force**

1. This Protocol shall enter into force provisionally upon signature by Heads of State and Government. Accordingly, signatory Member States and the Executive Secretariat hereby undertake to start implementing all provisions of this Mechanism upon signature.
2. This Protocol shall definitely enter into force upon ratification by at least nine (9) signatory States in accordance with the constitutional procedures of each Member State.

**Article 58**  
**Depositary Authority**

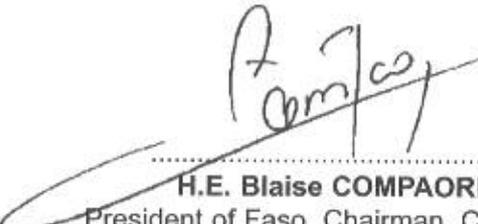
This Protocol and all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies to all Member States and notify them of the dates of deposit of instruments of ratification by the Member States and shall register it with the Organisation of African Unity (OAU), as well as the United Nations (UN) and any other Organisation as may be decided by the Council.

**IN FAITH THEREOF, WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) HAVE SIGNED THIS PROTOCOL**

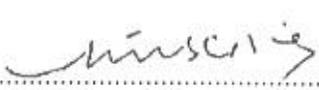
**DONE AT LOME, THIS 10TH DAY OF DECEMBER, 1999**

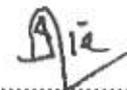
**IN SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES,  
ALL TEXTS, BEING EQUALLY AUTHENTIC.**

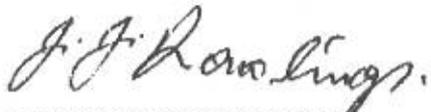
  
.....  
**H.E. Mathieu KEREKOU**  
President of the Republic of **Benin**

  
.....  
**H.E. Blaise COMPAORE**  
President of Faso, Chairman, Council of  
Ministers of **Burkina Faso**

.....  
**Hon. Alexandre Dias MONTEIRO**  
Minister of Commerce, Industry and Energy  
For and on behalf of the  
President of **Cabo Verde**

  
.....  
**H.E. Henri Konan BEDIE**  
President of the  
Republic of **Côte d'Ivoire**

  
.....  
**H.E. Mrs Isatou NJIE-SAIDY**  
Vice-President, Secretary of State for Health,  
Labour, Social Welfare and Women's Affairs,  
For and on behalf of the President  
of the Republic of **The Gambia**

  
.....  
**H.E. Flt.-Lt. Jerry John RAWLINGS**  
President of the Republic  
of **Ghana**

.....  
**Hon. Zainoul Abidine SANOUSSI**  
Minister of Foreign Affairs in the  
President's Office  
For and on behalf of the President  
of the Republic of **Guinea**

.....  
**Hon. José Pereira BATISTA**  
Minister of Foreign Affairs  
and International Cooperation  
For and on behalf of the President  
of the Republic of **Guinea-Bissau**

.....  
**Hon. Enoch DOGOLEAH**  
Vice-President, For and on behalf of the  
President of **Liberia**

.....  
**H.E. Alpha Oumar Konare**  
President of the Republic of **Mali**

.....  
**Hon. Sidi Mohamed Ould BOUBACAR**  
Minister, Secretary-General at the Presidency  
For and on behalf of the President of the  
Islamic Republic of **Mauritania**

.....  
**H.E. Squadron Leader Daouda  
Malam WANKE**  
President of the Council for National  
Reconciliation, Head of State of the  
Republic of **Niger**

.....  
**H.E. Olusegun OBASANJO**  
President, Commander-in-Chief  
of the Armed Forces of the Federal  
Republic of **Nigeria**

.....  
**H.E. Abdou DIOUF**  
President of the  
Republic of **Senegal**

.....  
**H.E. Ahmad Tejan KABBAH**  
President of the Republic  
of **Sierra Leone**

.....  
**H.E. Gnassingbé EYADEMA**  
President of the  
**Togolese Republic**

CHAPTER TWO

**PROTOCOL A/SP1/12/01  
ON DEMOCRACY AND GOOD GOVERNANCE  
SUPPLEMENTARY TO THE PROTOCOL RELATING  
TO THE MECHANISM FOR CONFLICT PREVENTION,  
MANAGEMENT, RESOLUTION, PEACEKEEPING  
AND SECURITY**

## PREAMBLE

### **WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS):**

MINDFUL OF the ECOWAS Treaty signed in Cotonou on 24 July 1993, notably its Article 58;

MINDFUL OF the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security signed In Lome on 10 December, 1999;

CONSIDERING all the issues enumerated or reaffirmed in the preamble to the Protocol of 10 December 1999 referred to above;

MINDFUL OF the principles set out in the OAU Solemn Declaration on Security, Stability, Development and Cooperation in Africa adopted in Abuja on 8 and 9 May 2000 and the Decision AHG. DEC 142 (XXV) on the framework for OAU's reaction to unconstitutional change of government, adopted in Algiers in July 1999;

CONSIDERING the Harare Declaration adopted by the Commonwealth on 20 October 1991 and the Bamako Declaration adopted by the member countries of the Francophonie on 3 November 2000;

CONSIDERING also the Cotonou Declaration adopted on 6 December 2000 at the end of the 4th international conference on new or restored democracies;

RECALLING that women's rights have been recognised and guaranteed in all international human rights instruments, notably the Universal Declaration of human rights, the African Charter on Human and Peoples Rights and the Convention on the Elimination of all forms of Discrimination Against Women;

MINDFUL of the ratification of the African Charter on Human and Peoples Rights and other international human rights instruments by the majority of the Member States and their solemn commitment to eliminate all forms of discrimination and harmful practices against women;

CONCERNED about the increasing wave of international terrorism;

CONCERNED also about the increasing incidence of conflicts caused by religious intolerance, political marginalisation and non-transparent elections;

HAVING OBSERVED that to become really effective, the Protocol of 10 December 1999 needs to be complemented through the incorporation of provisions concerning issues such as prevention of internal crises, democracy and good governance, the rule of law, and human rights;

HAVING DECIDED to enhance the ECOWAS Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security;

### **HAVE AGREED AS FOLLOWS:**

#### **DEFINITIONS:**

The terms and expressions used in the present Supplementary Protocol have the same meanings as those used in the Protocol of 10th December 1999.

The list of definitions is completed as follows:

**"Treaty"** means the Revised Treaty of the Economic Community of West African States (ECOWAS) signed in Cotonou on 24 July, 1993;

**"Protocol"** means the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, signed in Lome on 10th December 1999;

**"Supplementary Protocol"** means the Protocol on Democracy and Good Governance supplementary to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security;

**"Community"** means the Economic Community of West African States referred to under Article 2 of the Treaty;

**"Member State" or "Member States"** means a Member State or Member States of the Community as defined in paragraph 2 of Article 2 of the Treaty;

**"Community citizen or citizens"** means any national(s) of Member States who satisfy the conditions stipulated in the Protocol defining Community citizenship;

**"Court of Justice"** means the Court of Justice of the Community established under Article 15 of the Treaty;

**"Authority"** means the Authority of Heads of State and Government of the Economic Community of West African States established by Article 7 of the Treaty;

**"Mediation and Security Council"** means the Mediation and Security Council as defined by Article 8 of the Protocol;

**"Defence and Security Commission"** means the Defence and Security Commission as defined in Article 18 of the Protocol;

**"Executive Secretary"** means the ECOWAS Executive Secretary appointed in accordance with Article 18 of the Treaty;

**"Executive Secretariat"** means the Executive Secretariat established under Article 17 of the Treaty;

**"Deputy Executive Secretary"** means the Deputy Executive Secretary in charge of Political Affairs, Defence and Security as referred to in Article 16 of the Protocol;

**"ECOMOG"** means the ECOWAS Cease-fire Monitoring Group, which constitutes the Community's intervention force as defined in Article 21 of the Protocol relating to the Mechanism etc;

**"Armed Forces"** includes the army, Airforce, Navy, and Gendarmerie;

**"Security Forces"** the Police, Gendarmrie, National Guards and other Forces assigned with security.

## **CHAPTER 1 PRINCIPLES**

The provisions of this chapter complement and clarify the principles set out in Article 2 of the Protocol of 10 December 1999.

### **SECTION I : CONSTITUTIONAL CONVERGENCE PRINCIPLES**

#### **Article 1**

The following shall be declared as constitutional principles shared by all Member States:

- a) - Separation of and powers (the Executive, Legislative and Judiciary).

- Empowerment and strengthening of parliaments and guarantee of parliamentary immunity.
  - Independence of the Judiciary: Judges shall be independent in the discharge of their duties.
  - The freedom of the members of the Bar shall be guaranteed; without prejudice to their penal or disciplinary responsibility in the event of contempt of court or breaches of the common law.
- b) Every accession to power must be made through free, fair and transparent elections.
  - c) Zero tolerance for power obtained or maintained by unconstitutional means.
  - d) Popular participation in decision-making, strict adherence to democratic principles and decentralisation of power at all levels of governance.
  - e) The armed forces must be apolitical and must be under the command of a legally constituted political authority: no serving member of the armed forces may seek to run for elective political.
  - f) Secularism and neutrality of the State in all matters relating to religion; freedom for each individual to practise, within the limits of existing laws, the religion of his/her choice everywhere on the national territory. The secularism shall extend to all parts of the State, but shall not deprive the State of the right to regulate, with due respect to human rights, the different religions practised on the national territory or to intervene when law and order break down as a result of any religious activity.
  - g) The State and all its institutions belong to all the citizens; therefore none of their decisions and actions shall involve any form of discrimination, be it on an ethnic, racial, religion or regional basis.
  - h) The rights set out in the African Charter on Human and People's Rights and other international instruments shall be guaranteed in each of the ECOWAS Member States; each individual or organisation shall be free to have recourse to the common or civil law courts, a court of special jurisdiction, or any other national institution established within the framework of an international instrument on Human Rights, to ensure the protection of his/her rights.  
In the absence of a court of special jurisdiction, the present Supplementary Protocol shall be regarded as giving the necessary powers to common or civil law judicial bodies.
  - i) Political parties shall be formed and shall have the right to carry out their activities freely, within the limits of the law. Their formation and activities shall not be based on ethnic, religious, regional or racial considerations. They shall participate freely and without hindrance or discrimination in any electoral process. The freedom of the opposition shall be guaranteed.  
Each Member State may adopt a system for financing political parties, in accordance with criteria set under the law.
  - j) The freedom of association and the right to meet and organise peaceful demonstrations shall also be guaranteed.
  - k) The freedom of the press shall be guaranteed.
  - l) All former Heads of State shall enjoy a special status including freedom of movement. They shall enjoy special benefits compatible to their status as former Heads of State.

## **SECTION II: ELECTIONS**

### **Article 2**

1. No substantial modification shall be made to the electoral laws in the last six (6) months before the elections, except with the consent of a majority of Political actors.
2. All the elections shall be organised on the dates or at periods fixed by the Constitution or the electoral laws.
3. Member States shall take all appropriate measures to ensure that women have equal rights with men to vote and be voted for in elections, to participate in the formulation of government policies and the implementation thereof and to hold public offices and perform public functions at all levels of governance.

### **Article 3**

The bodies responsible for organising the elections shall be independent or neutral and shall have the confidence of all the political actors. Where necessary, appropriate national consultations shall be organised to determine the nature and the structure of the bodies.

### **Article 4**

1. Each ECOWAS Member State shall ensure the establishment of a reliable registry of births and deaths. A central registry shall be established in each Member State.
2. Member States shall cooperate in this area with a view to exchanging experiences and where necessary providing technical assistance to each other in the production of reliable voter's lists.

### **Article 5**

The voters' lists shall be prepared in a transparent and reliable manner, with the collaboration of the political parties and voters who may have access to them whenever the need arises.

### **Article 6**

The preparation and conduct of elections and the announcement of results shall be done in a transparent manner.

### **Article 7**

Adequate arrangements shall be made to hear and dispose of all petitions relating to the conduct of elections and announcement of results.

### **Article 8**

Member States shall use the services of civil society organisations involved in electoral matters to educate and enlighten the public on the need for peaceful elections devoid of all acts of violence.

### **Article 9**

The party and/or candidate who loses the elections shall concede defeat to the political party and/or candidate finally declared the winner, following the guidelines and within the deadline stipulated by the law.

#### **Article 10**

All holders of power at all levels shall refrain from acts of intimidation or harassment against defeated candidates or their supporters.

### **SECTION III: ELECTION MONITORING AND ECOWAS ASSISTANCE**

#### **Article 11**

The provisions of Article 42 of the Protocol of 10th December, 1999 are hereby complemented by the provisions under this section.

#### **Article 12**

1. At the request of any Member State, ECOWAS may provide assistance in the conduct of any election.
2. Such assistance may take any form.
3. ECOWAS may dispatch a monitoring team to the country concerned for the purpose of monitoring the elections.
4. The decision in this respect shall be taken by the Executive Secretary.

#### **Article 13**

1. As elections in a Member State approach, the Executive Secretary shall dispatch a fact-finding Mission to the Member State conducting an election.
2. This mission may be followed by an exploratory Mission aimed at:
  - collecting all texts governing the elections concerned;
  - gathering all information on the conditions under which the elections shall be conducted;
  - collecting all pertinent information relating to the contesting candidates or political parties;
  - meeting all candidates, political party leaders, government authorities and other competent bodies;
  - assessing the status of preparations for the elections;
  - gathering any other useful information that may provide a clear picture of the situation.

#### **Article 14**

1. The Executive Secretary shall appoint the leader and the members of the Observer/Supervisory Mission, who shall be independent persons and nationals of Member States other than the Member State conducting the elections.
2. The Members of the Mission shall include women.
3. Staff of the Executive Secretariat shall be designated to assist the Mission.

#### **Article 15**

1. The Observer/Supervisory Mission, with the documents collected by the exploratory Mission and the report prepared by the Mission, shall arrive in the Member State concerned at least forty-eight hours prior to the conduct of the elections.

2. The Observer/Supervisory Mission may be preceded by ECOWAS Staff, who shall prepare the meetings to be held between the Mission and the national authorities.
3. The Mission shall be expected to hold consultations with the relevant authorities of the host government for an exchange of views and in order to determine the mode of deployment in the host Member State.
4. It may establish co-operation links with NGO or any other observer teams while maintaining its autonomy.
5. The members of the Mission shall show restraint and refrain from making any individual statement. Any statement shall be made collectively and on behalf of the Mission by the team leader or a spokesperson appointed for this purpose.

#### **Article 16**

1. The Mission shall remain in the country throughout the election period and until the election results are announced.
2. The Mission shall also submit a report to the Executive Secretary.
3. The Report shall comprise:
  - the Mission's own observations;
  - statements by witnesses;
  - its assessment of the conduct of the elections from the point of view of the national laws governing the elections and the universal principles in electoral matters;
  - its recommendations for the improvement of the conduct of future elections and monitoring Missions.

#### **Article 17**

1. The Observer/Supervisory Mission's report shall be signed by all Members of the Mission and submitted to the Executive Secretary by the Mission's leader within fifteen (15) days with effect from the date of accomplishment of the Mission.
2. Before leaving the host country, the Mission shall convene a consultative meeting for the preparation of the report.
3. Any member of the Mission, who is unable to attend the meeting, shall submit a report in writing to the Mission's leader before leaving the country.
4. ECOWAS Staff shall assist the Mission in the preparation of the report.

#### **Article 18**

The report shall be forwarded by the Executive Secretary, together with his own observations, if necessary, to the Mediation and Security Council for recommendations to be made to the country concerned and/or to all Member States, and for measures to be taken, where necessary.

**SECTION IV:  
THE ROLE OF THE ARMED FORCES, THE POLICE AND THE  
SECURITY FORCES IN A DEMOCRACY**

**Article 19**

1. The armed forces and police shall be non-partisan and shall remain loyal to the nation. The role of the armed forces shall be to defend the independence and the territorial integrity of the State and its democratic institutions.
2. The police and other security agencies shall be responsible for the maintenance of law and order and the protection of persons and their properties.
3. The armed forces, the police and other security agencies shall participate in ECOMOG missions as provided for in Article 28 of the Protocol.
4. They may also, on the decision of the constitutionally constituted authorities, participate in peacekeeping missions under the auspices of the African Union or the United Nations.
5. Members of the armed forces may be drafted to participate in national development projects.

**Article 20**

1. The armed forces, the police and other security agencies shall be under the authority of legally constituted civilian authorities.
2. The civilian authorities shall respect the apolitical nature of the armed forces and police. All political or trade union activities and propaganda shall be forbidden in the barracks and within the armed forces.

**Article 21**

The armed and security forces personnel as citizens, shall be entitled to all the rights set out in the constitution, except as may be stated otherwise in their special regulations.

**Article 22**

1. The use of arms to disperse non-violent meetings or demonstrations shall be forbidden. Whenever a demonstration becomes violent, only the use of minimal and/or proportionate force shall be authorised.
2. All cruel, inhuman and degrading treatment shall be forbidden.
3. The security forces, while carrying out investigations, shall not disturb or arrest family members or relations of the person presumed guilty or suspected of having committed an offence.

**Article 23**

1. The armed forces, the police and other security agencies shall during their training receive instructions on the Constitution of their country, ECOWAS principles and regulations, human rights, humanitarian law and democratic principles. In this regards, seminars and meetings bringing together members of the armed forces, Police and other Security Agencies and other sectors of society shall be organised from time to time.
2. Joint training sessions shall also be arranged for members of the armed forces from different ECOWAS countries, the police, other security forces, university dons and members of the civil society.

#### **Article 24**

1. The Member States undertake to strengthen their national agencies responsible for preventing and combating terrorism.
2. In accordance with Articles 3 (d) and 16 (1) of the Protocol, the Department of Political Affairs, Defence and Security of the Executive Secretariat shall initiate joint activities for the national agencies of Member States in charge of preventing and combating terrorism.

### **SECTION V : POVERTY ALLEVIATION AND PROMOTION OF SOCIAL DIALOGUE**

#### **Article 25**

Member States agree that poverty alleviation and promotion of social dialogue are important factors for peace.

#### **Article 26**

Member States undertake to provide the basic human needs of their populations.

#### **Article 27**

Member States undertake to fight poverty effectively in their respective countries and within the Community, especially by:

- creating an environment conducive to private investment and the development of a dynamic and competitive private sector;
- providing the instruments necessary for the enhancement of job creation and for the development of the social sector as a matter of priority;
- ensuring equitable distribution of resources and income in order to consolidate national unity and solidarity;
- enhancing the integration of economic, financial and banking activities through harmonisation of commercial and financial laws and establishment of Community multi-national corporations.

#### **Article 28**

1. Employers associations and trade unions shall be organised and/or strengthened in each Member State and at the regional level of ECOWAS.
2. Member States shall promote social dialogue. In this regard, employers associations and workers unions shall meet regularly among themselves and with political and administrative authorities with a view to preventing social conflict.
3. There shall be associations of farmers, artisans and artists in each Member State and at the sub-regional level of ECOWAS.

### **SECTION VI: EDUCATION, CULTURE AND RELIGION**

#### **Article 29**

Education, culture and religion are essential factors for peace, stability and development in each Member State.

### Article 30

1. There shall be regular exchanges of students and academics between Member States.
2. Community institutions shall be established to provide training for students from the sub-region.
3.
  - In accordance with Article 36 of the Protocol, the Executive Secretariat shall, from now on, provide budgetary allocations for immediate funding of the programmes as contained in this Article.
  - Each Member State shall in the shortest possible time also make a contribution for the take-off and implementation of the programmes contained in this Article.
  - A percentage of the Community levy shall be allocated for the establishment of a fund for the implementation of the activities outlined in this Article.
4. A policy to promote women's education at all levels and in all fields of training shall be adopted and implemented in each Member State and at the level of ECOWAS.
5. Member States shall guarantee women equal rights with men in the field of education and in particular, shall ensure the same conditions for career and vocational guidance, access to the same curricula, access to opportunities to benefit from scholarships and other study grants. They shall also ensure the elimination of stereotyped concepts of roles of men and women at all levels and in all forms of education.

### Article 31

1. The culture of every group of people in each Member State shall be respected and developed.
2. The Executive Secretary shall take the necessary measures to organise, within the sub-region, periodic inter-state cultural events: festivals of arts and culture, symposia, various cultural events on literature, music, arts, and sports.
3. Member States undertake to take measures to eliminate or prevent religious conflicts and to promote religious tolerance and harmony. To this end, permanent structures for consultations among the different religions on the one hand and between the different religions and the State on the other hand, shall be established at national levels.
4. The Executive Secretary shall take the necessary measures to promote, through periodic meetings, consultations among the religious organisations of Member States.

## SECTION VII: RULE OF LAW, HUMAN RIGHTS AND GOOD GOVERNANCE

### Article 32

Member States agree that good governance and press freedom are essential for preserving social Justice, preventing conflict, guaranteeing political stability and peace and for strengthening democracy.

### Article 33

1. Member States recognise that the rule of law involves, not only the promulgation of good laws that are in conformity with the provisions on human rights, but also a good judicial system, a good system of administration, and good management of the State apparatus.

2. They are also convinced that a system that guarantees the smooth running of the State and its administrative and judicial services, contributes to the consolidation of the rule of law.

#### **Article 34**

1. Member States and the Executive Secretariat shall endeavour to adopt at national and regional levels, practical modalities for the enforcement of the rule of law, human rights, justice and good governance.
2. Member States shall ensure accountability, professionalism, transparency and expertise in the public and private sectors.

#### **Article 35**

1. Member States shall establish independent national institutions to promote and protect human rights.
2. The Executive Secretariat shall take measures to strengthen their capacities. The institutions shall be organised into a regional network.

Within the framework of this network, each national institution shall systematically submit to the Executive Secretariat, any report on human rights violations observed on its territory.

Such reports and reactions of governments shall be widely disseminated through the most appropriate means.

#### **Article 36**

Member States shall institutionalise a national mediation system.

#### **Article 37**

1. Each Member State shall work towards ensuring pluralism of the information sector and the development of the media.
2. Each Member State may give financial assistance to privately-owned media. The distribution and allocation of such assistance shall be done by an independent national body or by a body freely instituted by the journalists themselves.

#### **Article 38**

1. Member States undertake to fight corruption and manage their national resources in a transparent manner, ensuring that they are equitably distributed.
2. In this regard, Member States and the Executive Secretariat undertake to establish appropriate mechanisms to address issues of corruption within the Member States at the Community level.

#### **Article 39**

Protocol A/P. 1/7/91 adopted in Abuja on 6 July 1991 relating to the Community Court of Justice, shall be reviewed so as to give the Court the power to hear, inter-alia, cases relating to violations of human rights, after all attempts to resolve the matter at the national level have failed.

## **SECTION VIII: WOMEN, CHILDREN AND THE YOUTH**

### **Article 40**

Member States agree that the development and promotion of the welfare of women are essential factors for development, progress and peace in the society. Consequently, they undertake to eliminate all forms of discrimination and harmful and degrading practices against women.

### **Article 41**

1. Member States shall guarantee children's rights and give them access to basic education.
2. Special laws shall be enacted in each Member State and at the level of the Community against child trafficking and child prostitution.
3. The Community shall adopt laws and regulations on Child Labour in line with the provisions of the International Labour Organisation (ILO).

### **Article 42**

1. Member States shall agree on rules to be adopted on the training and development of the youth.
2. Uniform laws shall be adopted within the Community to prevent and handle cases of juvenile delinquency.

### **Article 43**

The Executive Secretariat shall put in place all necessary structures within its establishment to ensure the effective implementation of common policies and programmes relating to the education and the promotion of the welfare of women and youth.

## **CHAPTER II MODALITIES FOR IMPLEMENTATION AND SANCTIONS**

### **Article 44**

1. This Article complements the provisions of Chapter V of the Protocol of 10th December 1999.
2. In order to give full force to the provision of Article 28 of this Supplementary Protocol and in accordance with Article 57 of the Treaty, a legal convention incorporating, if need be, Convention A/P.1/7/92 relating to mutual assistance in criminal matters, and the Convention A/P1/8/94 on Extradition shall be elaborated and adopted not later than twelve months after the entry into force of this Supplementary Protocol.

### **Article 45**

1. In the event that democracy is abruptly brought to an end by any means or where there is massive violation of Human Rights in a Member State, ECOWAS may impose sanctions on the State concerned.
2. The sanctions which shall be decided by the Authority may take the following forms, in increasing order of severity:
  - Refusal to support the candidates presented by the Member State concerned for elective posts in international organisations;

- Refusal to organise ECOWAS meetings in the Member State concerned;
  - Suspension of the Member State concerned from all ECOWAS decision-making bodies. During the period of the suspension the Member State concerned shall be obliged to pay its dues for the period.
3. During the period of suspension, ECOWAS shall continue to monitor, encourage and support the efforts being made by the suspended Member State to return to normalcy and constitutional order.
  4. On the recommendation of the Mediation and Security Council, a decision may be taken at the appropriate time to proceed as stipulated in Article 45 of the Protocol of 10th December 1999.

### **CHAPTER III GENERAL AND FINAL PROVISIONS**

#### **Article 46**

This Supplementary Protocol shall form an integral part of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, signed in Lome on 10 December 1999.

#### **Article 47 Amendments**

1. Any Member State may submit proposals for the amendment or revision of this Supplementary Protocol.
2. Any such proposals shall be submitted to the Executive Secretary who shall notify other Member States not later than thirty days after the receipt of such proposals. Amendments or revisions shall not be considered by the Authority unless Member States shall have been given at least one month's notice thereof.
3. Amendments or revisions shall be adopted by the Authority.

#### **Article 48 Withdrawal**

1. Any Member State wishing to withdraw from this Supplementary Protocol shall give a one-year written notice to the Executive Secretary who shall inform Member States thereof. At the end of this period of one year, if such notice is not withdrawn, such a State shall cease to be a party to this Supplementary Protocol.
2. During the period of one year referred to in the preceding paragraph, such a Member State shall nevertheless continue to observe the provisions of this Supplementary Protocol and discharge its obligations thereunder.

#### **Article 49 Entry into Force**

This Supplementary Protocol shall enter into force upon ratification by a least nine (9) signatory States in accordance with the constitutional procedures of each Member State.

**Article 50**  
**Depository Authority**

This Supplementary Protocol and all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies to all Member States and notify them of the dates of deposit of instruments of ratification by the Member States and shall register it with the Organisation of African Unity (OAU)/African Union (AU), as well as the United Nations (UN) and any other organisation as may be decided by the Council.

**IN FAITH WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT  
OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES  
(ECOWAS) HAVE SIGNED THIS SUPPLEMENTARY PROTOCOL**

**IN SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES,  
ALL TEXTS BEING EQUALLY AUTHENTIC**

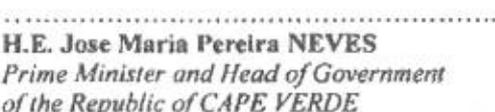
**DONE AT DAKAR ON THIS 21ST DAY OF DECEMBER, 2001**



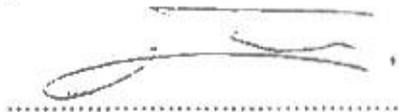
.....  
**H.E. Mathieu KEREKOU**  
*President of the Republic  
of BENIN*



.....  
**H.E. Blaise COMPAORE,**  
*President of FASO and Chairman  
of the Council of Ministers of BURKINA  
FASO*



.....  
**H.E. Jose Maria Pereira NEVES**  
*Prime Minister and Head of Government  
of the Republic of CAPE VERDE*



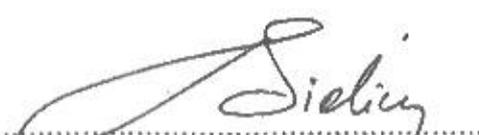
.....  
**H.E. Abou Drahamane SANGARE**  
*Minister of Foreign Affairs for and on  
behalf of the President of the Republic of  
COTE D'IVOIRE*



.....  
**H.E. Yahya A. J. J. JAMMEH**  
*President of the Republic of The GAMBIA*



.....  
**H.E. John Agyekum KUFUOR**  
*President of the Republic of GHANA*



.....  
**H.E. Lamine SIDIBE**  
*Prime Minister of the Republic of GUINEA*



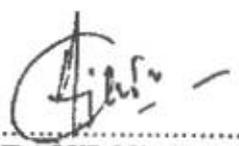
.....  
**H.E. Koumba Yala Kobde NHANCA**  
*President of the Republic of GUINEA  
BISSAU*



**H.E. Monle R. CAPTAN**  
*Minister of Foreign Affairs  
for and on behalf of the President of the  
Republic of LIBERIA*



**H.E. Alpha Oumar KONARE**  
*President of the Republic of MALI*



**H.E. MINDAOUDOU Alchatou (Mrs)**  
*Minister of Foreign Affairs  
For and on behalf of the President of the  
Republic of NIGER*



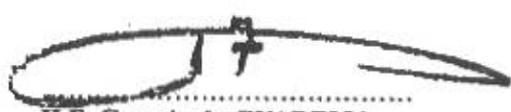
**H.E. Olusegun OBASANJO**  
*President and Commander-in-Chief of the  
Armed Forces of the Federal Republic of  
NIGERIA*



**H.E. Abdoulaye WADE**  
*President of the Republic of SENEGAL*



**H.E. Alhaji Dr. Ahmad Tejan KABBAH**  
*President of the Republic of SIERRA  
LEONE*



**H.E. Gnassingbe EYADEMA**  
*President of the Togolese Republic*

CHAPTER THREE

**SUPPLEMENTARY ACT A/SA.10/01/07  
RELATING TO THE ADOPTION OF SELECTION CRITERIA  
FOR DETERMINING MEMBERSHIP OF ECOWAS MEMBER  
STATES ON THE AFRICAN UNION PEACE AND SECURITY  
COUNCIL**

## **THE HIGH CONTRACTING PARTIES,**

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty as amended in June establishing the Authority of Heads of States and Government and defining its composition and function;

MINDFUL of Articles 41 and 52 of the ECOWAS Protocol relating to the Mechanism on Conflict Prevention Management Resolution Peacekeeping and Security of 1999 which mandates ECOWAS cooperation with other International Organizations and with the African Union Mechanism for Conflict Prevention, Management and Resolution;

RECOGNIZING the primary responsibility of the African Union for the maintenance of peace and security within the African Continent;

CONSIDERING the Protocol establishing the African Union Peace and Security Council adopted in Durban, South Africa on 9th July 2002;

HAVING noted that four (4) seats has been allocated to the West African Sub-Region by the African Union on its Peace and Security Council;

MINDFUL of the need to ensure ECOWAS membership on the African Union Peace and Security Council thereby ensuring West African involvement in the decision-making process at the level of that Council;

DESIROUS therefore of adopting a formula to be applied in determining ECOWAS membership on the African Union Peace and Security Council;

ON THE RECOMMENDATION of the meeting of the Mediation and Security Council which held in Ouagadougou on 20th December 2006.

AGREE AS FOLLOWS:

### **ARTICLE 1**

The selection criteria for determining membership of ECOWAS Member States on the African Union Peace and Security Council to encumber the four (4) Seats allocated to West Africa is hereby adopted as follows:

- Appointment of the Member State holding the chairmanship of ECOWAS in the year when appointment is due;
- Appointment of two (2) other Member States on a rotational basis in alphabetical order for the seats reserved for ECOWAS within the Council;
- Appointment of Nigeria to occupy the fourth seat on a permanent basis ;
- re-enlisting; at the bottom of the list during the selection process, Member States that have already occupied seats.

### **ARTICLE 2**

This selection criteria shall be applied by the Mediation and Security Council at the Ministerial level, in determining ECOWAS representation at the African Union Peace and Security Council.

### **ARTICLE 3**

This Supplementary Act shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of Authority. It shall also be published by each Member State in its National Gazette within the same time frame.

#### ARTICLE 4

1. This Supplementary Act shall enter into force upon its publication. Consequently, signatory States and ECOWAS Institutions pledge to commence the implementation of its provisions on its entry into force.
2. This Supplementary Act is annexed to the ECOWAS Treaty of which it is an integral part.

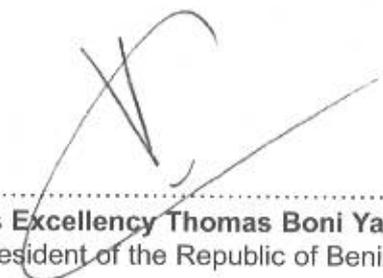
#### ARTICLE 5

This Supplementary Act shall be deposited with the Commission which shall transmit certified true copies thereof to all the Member States and shall register it with the African Union, the United Nations and such other organizations as Council may determine.

**IN WITNESS WHEREOF, WE, THE HEADS OF STATE AND GOVERNMENT  
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES,  
HAVE SIGNED THIS SUPPLEMENTARY ACT**

**DONE AT OUAGADOUGOU, THIS 19TH DAY OF JANUARY 2007**

**IN SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES,  
ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC.**

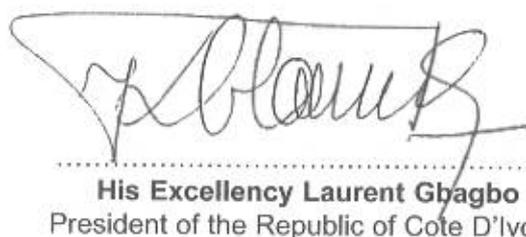


.....  
**His Excellency Thomas Boni Yayi**  
President of the Republic of Benin



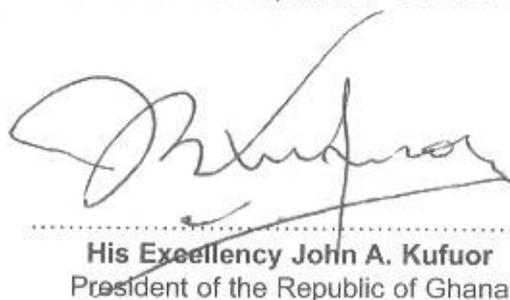
.....  
**His Excellency Blaise Compaore**  
Chairman of the Council of Ministers  
President of the Faso

.....  
President of the Republic of Cabo Verde



.....  
**His Excellency Laurent Gbagbo**  
President of the Republic of Cote D'Ivoire

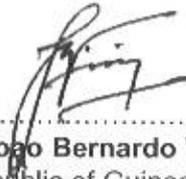
.....  
President of the Republic of The Gambia



.....  
**His Excellency John A. Kufuor**  
President of the Republic of Ghana



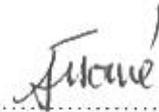
**Hon. Sidibe Fatoumata KABA**  
Minister of International Cooperation  
For and on behalf of the President  
of the Republic of Guinea



**His Excellency Jobo Bernardo Vieira**  
President of the Republic of Guinea Bissau



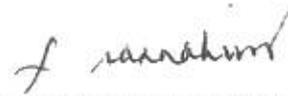
**Her Excellency Ellen Johnson-Sirleaf**  
President of the Republic of Liberia



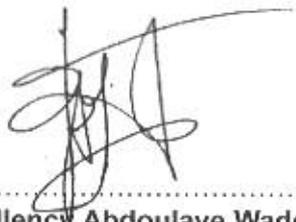
**His Excellency Toumani Toure**  
President of the Republic of Mali



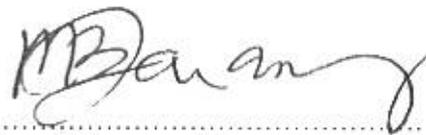
**His Excellency Mamadou Tandja**  
President of the Republic of Niger



**His Excellency Olusegun Obasanjo**  
President, Commander in Chief of the Armed  
Forces of the Federal Republic of Nigeria



**His Excellency Abdoulaye Wade**  
President of the Republic of Senegal  
Planning, for and on behalf of the President



**Hon. Mohammed Daramy**  
Minister of Development and Economic  
of the Republic of Sierra Leone



**His Excellency Faure Essozimna Gnassingbe**  
President of the Togolese Republic

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## CHAPTER FOUR

### **SUPPLEMENTARY ACT A/SA.11/01/07 CHANGING THE NAME "COUNCIL OF ELDERS" IN THE ENGLISH VERSION OF THE 1999 PROTOCOL RELATING TO THE MECHANISM FOR CONFLICT PREVENTION AND EXTENDING THE TENURE OF THE SAID COUNCIL FROM ONE TO THREE YEARS**

## THE HIGH CONTRACTING PARTIES,

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty as amended, establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of Article 19 (3c) of the said Treaty under which sectoral meetings shall be convened by the President of the Commission with a view to examining sectoral issues which promote the achievement of the objectives of the Community;

MINDFUL of the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, adopted in Lome on 10 December 1999;

MINDFUL of Articles 15 and 20 of the said Protocol relating, on the one hand, to the functions of the President of the Commission, and on the other, to the composition and mandate of the Council of Elders;

MINDFUL of Decision A/DEC. 26/01/06 approving the appointment of new members of the Council of Elders;

CONCERNED about the various conflicts that still affect a number of States of the sub-region;

CONSIDERING that the conciliation, mediation and facilitation roles of the Council members call for proven experience, wisdom and talent on the part of such members;

CONSIDERING that the aforementioned qualities are not necessarily reflected in the concept used in the English version of the 1999 Protocol relating to the Mechanism for Conflict Prevention;

CONSIDERING the satisfactory manner in which the appointed mediators accomplish their mission;

NOTING, however, that the brevity of the tenure of the Council of Elders, which is one year, makes it impossible for the Council members to carry through their activities, notwithstanding their satisfactory performances;

CONVINCED that a longer tenure will ensure effective accomplishment of their missions;

WISHING to adopt a more appropriate title for the Council of Elders in the English version of the 1999 Protocol relating to the Mechanism for Conflict Prevention and to extend its tenure to three (3) years;

On the RECOMMENDATION of the meeting of the Mediation and Security Council, held in Ouagadougou on 20th December 2006;

### AGREE AS FOLLOWS:

#### Article 1:

In the English version of the 1999 Protocol relating to the Mechanism for Conflict Prevention, the ECOWAS Council of Elders shall henceforth assume the title "Council of the Wise."

#### Article 2:

The tenure of the ECOWAS Council of the Wise is hereby extended from one (1) to three (3) years.

#### Article 3:

This Supplementary Act shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of the Authority.

It shall also be published within the same time frame by each Member State in its National Gazette.

**Article 3:**

1. This Supplementary Act shall enter into force upon publication. Consequently, the signatory Member States and Institutions of ECOWAS undertake to start implementing its provisions upon its entry into force.
2. This Supplementary Act is annexed to the ECOWAS Treaty of which it forms an integral part.

**Article 4:**

This Supplementary Act shall be deposited with the Commission, which shall transmit certified true copies thereof to all Member States and shall register it with the African Union, the United Nations Organization and such other organizations as the Council of Ministers may determine.

**IN FAITH WHEREOF, WE, THE HEADS OF STATE AND GOVERNMENT  
OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES  
(ECOWAS), HAVE SIGNED THIS SUPPLEMENTARY ACT**

**DONE AT OUAGADOUGOU, THIS 19TH DAY OF JANUARY 2007**

**IN SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES,  
ALL TEXTS BEING EQUALLY AUTHENTIC.**

  
.....  
**His Excellency Thomas Boni Yayi**  
President of the Republic of Benin

  
.....  
**His Excellency Blaise Compaore**  
Chairman of the Council of Ministers  
President of the Faso

**Hon. Sidibe Fatoumata KABA**  
Minister of International Cooperation  
For and on behalf of the President  
of the Republic of Guinea

**His Excellency Jao Bernardo Vieira**  
President of the Republic of Guinea Bissau

**Her Excellency Ellen Johnson-Sirleaf**  
President of the Republic of Liberia

**His Excellency Toumani Toure**  
President of the Republic of Mali

**His Excellency Mamadou Tandja**  
President of the Republic of Niger

**His Excellency Olusegun Obasanjo**  
President, Commander in Chief of the Armed  
Forces of the Federal Republic of Nigeria

**His Excellency Abdoulaye Wade**  
President of the Republic of Senegal  
Planning, for and on behalf of the President

**Hon. Mohammed Daramy**  
Minister of Development and Economic  
of the Republic of Sierra Leone

**His Excellency Faure Essozimna Gnassingbe**  
President of the Togolese Republic

Vieira  
a Bissau

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of the Armed  
of Nigeria

## CHAPTER FIVE

# **SUPPLEMENTARY ACT ASP.1/10/09 ON THE ADOPTION OF MEASURES TO ENSURE THE RESTORATION OF DEMOCRATIC GOVERNANCE AND THE RESPECT OF THE RULE OF LAW IN THE REPUBLIC OF NIGER**

## THE HIGH CONTRACTING PARTIES,

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of the Declaration of the Political Principles of ECOWAS adopted in Abuja on 6th July, 1991;

MINDFUL of the Protocol relating to the Mechanism on Conflict Prevention, Management, Resolution, Peace-keeping and Security signed in Lomé on the 10th December, 1999;

MINDFUL of the Protocol on Democracy and Good Governance signed in Dakar on 21st December, 2001;

WHEREAS the Principles set out in the Solemn Declaration of the OAU on security, stability, development and cooperation in Africa, adopted in Abuja on 8th and 9th May, 2000, as well as Decision AHG. DEC.142 (xxv) on the framework relating to the reaction of the OAU to the anti-constitutional changes of Government, adopted in Algiers in July, 1999;

MINDFUL of the final Communiqué of the Retreat of the Council of Elders of ECOWAS held in Niamey, Republic of Niger, on 15th and 16th May, 2009;

MINDFUL of the final Communiqué of the extraordinary meeting of the ECOWAS Mediation and Security Council held in Abuja on the 24th day of August, 2009;

CONSIDERING that six (6) months before the end of his second and last term and in violation of the provisions of the Constitution of the Republic of Niger of 1999 and the ECOWAS Protocol on Democracy and Good Governance, the President of the Republic of Niger on the 4th day August, 2009 organised a referendum to change the Constitution of his country;

CONSIDERING that the Authorities in Niger have advanced as justification for replacing the 1999 Constitution, the desire to have the President of the Republic complete the "great projects" that he had initiated;

CONSIDERING that the provisions of the new Constitution adopted as a result of the 4th August 2009 referendum include, automatic extension of the term of office of President Mamadou TANDJA for three (3) years, from the end of his second (2nd) term, the possibility of contesting without limit in subsequent Presidential elections, and the power to appoint five (5) out of the nine (9) Judges of the Constitutional Court;

CONSIDERING that the major political parties, including an important break-away faction of President TANDJA's own political party, Niger's major Trade Unions, Civil Society Organizations and academic Institutions are all opposed to the change of the Constitution, with the exception of only a handful of organizations like the traditional Chiefs and the Tasarché movement;

NOTING the negative attitude of the Nigerien authorities towards the concerns raised by the Council of Elders during their mission in Niger, and those of the joint mission of the United Nations, African Union and ECOWAS;

NOTING also the concern of ECOWAS with regard to the constitutional crisis in Niger, conveyed to them by the delegation dispatched to Niamey by the current Chairman of the Authority of Heads of State and Government, and led by His Excellency General Abdusalami Abubakar, former President of the Federal Republic of Nigeria;

RECALLING that the Prime Minister of the Republic of Niger who represented the President of that country at the thirty-sixth ordinary session of the Authority of Heads of State and Government held

in Abuja on 22nd June 2009, assured the Authority, that all stakeholders will continue to work to ensure the respect of constitutional legality and the rule of law, and that no action that violates the Constitution of Niger will be taken;

NOTING that the Constitutional Court of Niger, whose decisions are binding and are not subject to appeal, rendered an opinion to the effect that any referendum that seeks to change the 1999 Constitution in disregard of its relevant provisions, shall constitute a violation of the said Constitution and a violation of the President's oath of office, and subsequently declared that the draft referendum is inadmissible;

CONSIDERING that the President of the Republic of Niger not taking note of the decision of the Constitutional Court, dissolved the Court, replaced its judges, changed members of the National Electoral Commission and dissolved the National Assembly in order to organize the referendum and to have the new Constitution adopted;

NOTING that these political developments have led to demonstrations by the opposition and a massive coalition of political parties, including very important personalities, members of Civil Society and the seven (7) main trade union groups, as well as negative reactions from the International Community;

CONSIDERING that the holding of the constitutional referendum and the ensuing change of the 1999 Constitution constitute violations of the ECOWAS Protocol A/SP1/12/01 on Democracy and Good Governance and calls into question the basis of the major norms and standards of ECOWAS and the African Union;

NOTING that Protocol A/SP1/12/01 on Democracy and Good Governance came into force on 20th February, 2008 and that the Republic of Niger ratified it on the 8th December, 2005;

NOTING that in order to consolidate the outcome of the referendum, President Mamadou TANDJA has scheduled legislative elections for October 20, 2009;

CONSCIOUS of the fact that the current political situation in Niger risks provoking within the region, a domino effect with regard to the unconstitutional accession to or maintenance of power of governments, thereby endangering the progress made in the democratization process of West Africa over the last two decades;

DESIROUS of creating a conducive environment for the restoration of dialogue between the Nigerien

#### **Article 3:**

The Niger Authorities shall postpone the legislative election scheduled for 20th October 2009, in favour of dialogue with the other leading political parties on resolving the political crises in that country.

#### **Article 4:**

A team comprising Her Excellency Mrs. Ellen Johnson Sirleaf, President of the Republic of Liberia, His Excellency, General (Rtd) Abdulsalami Abubakar, former Head of State of the Federal Republic of Nigeria and Dr. Mohamed Ibn Chambas, President of the ECOWAS Commission shall undertake a mission to Niamey to meet President TANDJA on Sunday 18th October 2009 to present the message of the Summit and facilitate the dialogue between the stakeholders.

#### **Article 5:**

1. His Excellency General (Rtd) Abdulsalami Abubakar, former Head of State of the Federal Republic of Nigeria is hereby appointed as the ECOWAS Mediator for Niger.
2. He shall immediately convene a meeting of Nigerien stakeholders to re-establish political dialogue aimed at creating National consensus for the resolution of the crisis in Niger.

#### **Article 6:**

Non-compliance by the Nigerien Authorities of the provisions of this Supplementary Act would lead to the automatic and immediate imposition of full sanctions as stipulated under Article 45 of the Supplementary Protocol on Democracy and Good Governance and a referral of the Niger file to the AU for similar action.

#### **Article 7:**

1. The President of the Commission shall notify the Chairman of the African Union Commission and the AU Peace and Security Council of this Supplementary Act for appropriate action.
2. The President of the Commission shall also notify the Member States, the Community Institutions, the European Union, the Organisation Internationale de la Francophonie, the United Nations Organisation of this Supplementary Act and shall seek the support of these Organisations in its enforcement.

#### **Article 8:**

This Supplementary Act which shall come into force as soon as it is signed and shall be published by the Commission in the official journal of the Community within thirty (30) days of its signature. It shall also be published by each Member State in its official journal within the same time-frame as that specified above, after the Commission has made notification of the same to it.

#### **Article 9:**

This Supplementary Act shall be deposited with the Commission, which body shall forward certified true copies of the same to all Member States and shall register the same with the African Union, the United Nations and any organization designated by the Council.

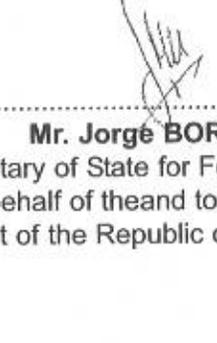
IN FAITH WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT OF THE ECONOMIC  
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DONE AT ABUJA, THIS 17TH DAY OF OCTOBER, 2009

IN SINGLE ORIGINAL IN THE FRENCH, ENGLISH AND PORTUGUESE LANGUAGES,  
ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC



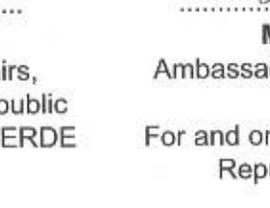
.....  
**H. E. Dr. Thomas Boni YAYI**  
President of the Republic of BENIN  
Head of State, Head of Government



.....  
**H. E. Mr. Blaise COMPAORE**  
President of FASO



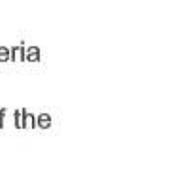
.....  
**Mr. Jorge BORGES**  
Secretary of State for Foreign Affairs,  
For and on behalf of the President of the Republic of BENIN  
President of the Republic of CAPE VERDE



.....  
**Mr. Amidou DIARRA**  
Ambassador of Côte d'Ivoire to Nigeria  
For and on behalf of the President of the  
Republic of CÔTE D'IVOIRE



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**Aja Dr. Isatou Njie SAIDY**  
Vice President of the Republic of the Gambia  
For and on behalf of the President of the



.....  
**Alhaji Muhammad MUMUNI**  
Minister for Foreign Affairs and Regional  
Integration. For and on behalf of the

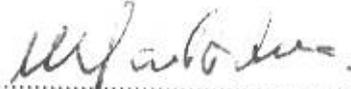


H. E. Mrs. Ellen JOHNSON-SIRLEAF  
President of the Republic of LIBERIA



H.E. Boubacar K. COULIBALY  
Ambassador of Mali to Nigeria  
For and on behalf of the President of  
the Republic of MALI

H. E. M. Mamadou TANDJA  
President of the Republic of NIGER



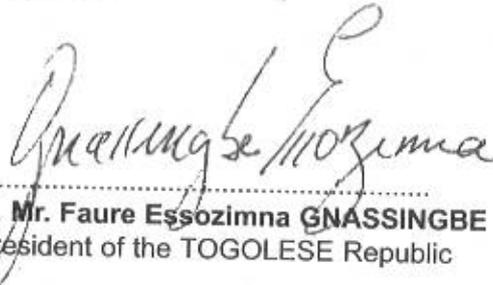
H. E. Alhaji Umar Musa YAR'ADUA  
President of the Federal Republic of  
Nigeria and Commander-In-Chief of the  
Armed Forces of the Federal  
Republic of NIGERIA,  
Chairman of Authority of Heads of State  
and Government of ECOWAS



H. E. M. Madické NIANG Esq.  
Minister of State for Foreign Affairs,  
For and on behalf of the President  
of the Republic of SENEGAL



H. E. Ernest Bai KOROMA  
President of the Republic of SIERRA LEONE



H. E. Mr. Faure Essozimna GNASSINGBE  
President of the TOGOLESE Republic

CHAPTER SIX

**SUPPLEMENTARY ACT ASP.2/10/09  
ON THE ADOPTION OF MEASURES FOR THE  
RESTORATION OF DEMOCRATIC GOVERNANCE AND  
RESPECT FOR THE RULE OF LAW IN THE REPUBLIC  
OF GUINEA**

## THE HIGH CONTRACTING PARTIES,

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of the Declaration of the ECOWAS Political Principles adopted in Abuja on 6th July 1991;

MINDFUL of the Protocol on the Mechanism for Conflict Prevention, Management, Resolution, Peace building and Security signed in Lomé on 10th December 1999;

MINDFUL of the Protocol on Democracy and Good Governance signed in Dakar on 21st December 2001;

MINDFUL of the ECOWAS Convention on Small Arms and Light Weapons, their ammunition and other related materials of 14th June 2006;

MINDFUL of the Principles enshrined in the OAU Solemn Declaration on stability, development and cooperation in Africa, adopted in Abuja on 8 and 9th May 2000, as well as Decision AHG. DEC.142 (xxv) relating to the framework for OAU response to unconstitutional changes of Government adopted in Algiers in July 1999;

CONSIDERING that after the demise of President Lansana CONTE, a military junta under the leadership of Captain Moussa Dadis CAMARA took over power in Guinea by overthrowing the established Authorities mandated by the Constitution to succeed the late President;

RECALLING that during the Extraordinary Summit held in Abuja on 10th January 2009, the Summit of Heads of State and Government viewed this takeover of power as a departure from democracy and suspended Guinea from participating in all meetings of ECOWAS decision-making bodies until a return to constitutional order in this country;

RECALLING FURTHER that regarding the prospect of re-establishing constitutionalism in the shortest possible time, members of the National Council for Democracy and Development (CNDD) made a lot of commitments including organizing credible, free, fair and transparent elections in 2009 where neither the President, the other members of the CNDD, nor the Prime Minister can contest the presidential election as candidates, and that the CNDD would ensure respect for human rights and the rule of law and would fight against any form of impunity and drug trafficking;

RECALLING that during the Extraordinary Summit on 10 January 2009, the Summit of Heads of State and Government took supporting measures in aid of Guinea including the pursuit of a permanent and constructive dialogue with the CNDD and all stakeholders involved in the process with the view to organizing speedy elections and transferring power to a democratically elected government;

NOTING that the decision of the Chairman of the CNDD in seeking to stand as a candidate in the presidential election led the 204th meeting of the Peace and Security Council of the African Union to enjoin him to explicitly and formally confirm before 17th October 2009 the commitment that neither himself, the other members of the CNDD, nor the Prime Minister would be candidates in the said elections;

NOTING that the political and security situation has in recent times seriously deteriorated with, a complete breakdown in the dialogue process between the CNDD and the opposition political parties, civil society and the unions rallying together as the forces vives, the violent repression of political activities with the latest example being the massacre of the civilian population on 28 September 2009 by the military who opened fire on them resulting in many deaths and a number of wounded persons, raping of several women and perpetration of horrendous acts against them;

CONCERNED by the acts of intimidation perpetrated by the Guinean Armed Forces on the civilian population, arbitrary arrests, intolerance of the military towards any political dissent, indiscipline and lack of command and control within the armed forces as well as information received, relating to trafficking and illegal circulation of arms in Guinea;

CONDEMNING strongly the killings and other atrocities perpetrated on 28th September 2009 by the Guinean military personnel against the population that the CNDD is duty bound to protect;

OBSERVING that the above-mentioned acts are a violation of the ECOWAS Protocol A/SP1/12/01 on Democracy and Good Governance;

OBSERVING FURTHER that Protocol A/SP1/12/01 on the Democracy and Good Governance came into force on 20th February 2008 and that the Republic of Guinea ratified it on 20th June 2003??;

CONSCIOUS that the current political and security situation in Guinea threatens to undermine progress made in the democratisation process in West Africa over the past two decades;

CONVINCED that a political solution seeking to put in place new transitional Authorities, with an avowed neutrality in the electoral process, based on the withdrawal of the CNDD or possibly through dialogue as well as a short-lived conciliatory transition period followed by credible and transparent elections, are likely to promote restoration of democratic governance and respect for the rule of law in the Republic of Guinea;

WELCOMING the nomination of His Excellency Blaise COMPAORE, President of Faso by the current ECOWAS Commission President as ECOWAS mediator for Guinea, and encouraging him to expedite the dialogue process with the Guinean stakeholders;

CONCERNED about creating a satisfactory environment for the restoration of democratic governance and respect of the rule of law in Guinea;

#### HEREBY AGREE AS FOLLOWS:

##### Article 1:

President Blaise COMPAORE, ECOWAS mediator on Guinea shall expedite the process of dialogue with all Guinean actors with the view to:

**Article 3:**

The President of the Commission shall work with the African Union on a regime of targeted sanctions against individuals who would pose a threat to the implementation of the transitional agenda.

**Article 4:**

The President of the ECOWAS Commission shall work with the Secretary General of the United Nations (UNSG), the Chairperson of the AU Commission to create a conducive and enabling environment, including the provision of a Security Cover to allow the Commission of Enquiry established by the UN to carry out its mission.

**Article 5:**

1. No exemptions shall be granted to the Government of Guinea and members of the CNDD for the importation, exportation and manufacture of small arms and light weapons as provided under the ECOWAS Convention on Small Arms and Light Weapons, their Ammunitions and other Related Materials.
2. The Government of Guinea and Members of the CNDD shall be excluded from the decision-making process relating to applications for exemptions under the said Convention on Small Arms and Light Weapons, their Ammunitions and other Related Materials.

**Article 6:**

1. ECOWAS shall place an embargo on the supply of arms, ammunitions and military equipment to Guinea.
2. In the enforcement of the provisions of paragraph 1 of this Article, the Member States shall prevent:
  - a) the sale or supply to Guinea of arms or related equipment of all kinds, military or police vehicles or related spare parts and accessories by their nationals or from their territories or by the use of ships or aircrafts flying their national flags;
  - b) the entry into the territorial waters of Guinea or its territory of any means of transport carrying arms or related equipment of all kinds including arms and ammunitions, military or police vehicles and related accessories

**Article 9:**

ECOWAS shall continue to monitor, encourage and support every effort made by the Republic of Guinea towards the restoration of democratic governance and the rule of law in that country.

**Article 10:**

The President of the Commission shall notify Member States, Community Institutions, the African Union, the European Union, the International Organization of the Francophonie, the United Nations Organization about this Supplementary Act and shall call for the support of these organizations in the enforcement of this Supplementary Act;

**Article 11:**

1. This Supplementary Act shall be published in the Official Journal of the Community by the Commission within thirty (30) days upon its signature by the ECOWAS Heads of State and Government.
2. It shall also be published by each Member State in its National Gazette within the same time-frame, after notification by the Commission.

**Article 12:**

This Supplementary Act shall be deposited at the Commission which shall transmit certified true copies thereof to all the Member States and register it with the African Union, the United Nations Organisation, and with such other organisations as may be designated by the Council of Ministers.

**IN WITNESS WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT  
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES,  
HAVE SIGNED THIS SUPPLEMENTARY ACT**

**DONE IN ABUJA, THIS 17TH DAY OF OCTOBER, 2009**

**IN A SINGLE ORIGINAL COPY IN FRENCH, ENGLISH AND PORTUGUESE LANGUAGES,  
THE THREE (3) TEXTS BEING EQUALLY AUTHENTIC.**

  
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President of the Republic of BENIN  
Head of State, Head of Government

  
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**Mr. Jorge BORGES**  
Secretary of State for Foreign Affairs,  
For and on behalf of the President of the Republic of CAPE VERDE

  
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**Alhaji Muhammad MUMUNI**  
Minister for Foreign Affairs and Regional  
Integration, For and on behalf of the  
President of the Republic of GHANA

**Hon. Abdoul Kabele CAMARA**

Minister for Foreign Affairs, Cooperation,  
Integration in Africa and Guineans in the  
Exterior, For and on behalf of the President  
of the Republic of GUINEA

**H.E. Malam Bacai SANHA**  
President of the Republic of GUINEA BISSAU

**H. E. Mrs. Ellen JOHNSON-SIRLEAF**  
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President of the TOGOLESE Republic

CHAPTER SEVEN

**SUPPLEMENTARY ACT A/SA.3/07/10  
DEFINING THE ROLE OF PERMANENT  
REPRESENTATIVES OF MEMBER STATES TO  
ECOWAS**

## THE HIGH CONTRACTING PARTIES,

MINDFUL of Articles 4, 8 and 10 of the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security establishing the Mediation and Security Council and defining its composition and functions;

MINDFUL of new Article 22 paragraph 1(b)vi, of the ECOWAS Treaty as amended by Article 2 of Protocol A/SP1/06/06 of 14 June 2006 and establishing the Committee on Political Affairs, Peace and Security;

MINDFUL of Article 14 paragraph 1 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace Keeping and Security of 10th December 1990, which directs Member States to accredit to the ECOWAS Commission Ambassadors as Permanent Representatives of their countries;

CONSIDERING that in accordance with the provisions of Articles 7 and 10 of the 1999 Protocol on Conflict Prevention, Permanent Representatives are empowered to consider issues relating to peace and regional security;

MINDFUL of Article 11 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace Keeping and Security mentioned above which prescribes that deliberations of the Mediation and Security Council shall be held at three (3) levels: Heads of State and Government, Ministerial and Ambassadorial levels;

AWARE that the responsibilities of Permanent Representatives with regard to their relations with ECOWAS should be more far-reaching to enable them contribute more meaningfully to the development of the Community;

REAFFIRMING the directive of the thirteenth session of the Authority of Heads of State and Government held at Banjul from 28 to 30 May 1990, that Ambassadors of Member States should collaborate with the Executive Secretariat for the realization of the goals and objectives of the Community;

CONVINCED of the need to clarify the directive of the thirteenth session of the Authority and to define the modalities for its implementation;

AWARE that the Permanent Representatives of Member States to ECOWAS are vital links between the ECOWAS Commission and the capitals of Member States;

CONVINCED that the Permanent Representatives constitute an appropriate channel for effective communication, providing regular and real time information to the Commission and to Member States;

ALSO AWARE that the Office of the Permanent Representatives are platforms for the promotion and development of the Community;

NOTING that for a long time the effective application of the above-mentioned directive has been hindered by several Member States not having diplomatic missions in the Federal Republic of Nigeria or Permanent Representations to the ECOWAS Commission as well as the insufficient capacity in diplomatic missions of Member States for effective coverage of ECOWAS matters;

DESIROUS of charging the Permanent Representatives with greater responsibilities beyond consideration of matters of sub-regional peace and security, thus making them more useful to the Community and enabling them contribute effectively and efficiently to the realization of the goals and objectives of the Community and consequently defining their role;

ON THE RECOMMENDATION of the Ministerial Meeting of Mediation and Security Council which held at Abuja 1st and 2nd June 2010.

**HEREBY AGREE AS FOLLOWS:**

**ARTICLE 1:**

Ambassadors of Member States of the Mediation and Security Council shall carry out more activities beyond the consideration of matters on sub-regional peace and security and the implementation of the provisions of the Protocol on the Mechanism for Conflict Prevention, Management and Resolution, Peacekeeping and Security.

**ARTICLE 2:**

Accreditation of Ambassadors as Permanent Representatives to the ECOWAS Commission shall confer on them other responsibilities as defined in the provisions of this Supplementary Act.

**ARTICLE 3:**

Permanent Representatives shall produce reports for the consideration of the Ministers of the Mediation and Security Council on matters of regional peace and security. In particular, these shall include:

- a) the decision and implementation of conflict prevention, management and resolution, peacekeeping and security policies;
- b) authorisation of all forms of intervention and the decision to deploy political and military missions;
- c) approval of the mandates and terms of reference of political and military missions;
- d) appointment, on the recommendation of the President of the Commission, of the Special Representative of the President of the Commission and the Force Commander.

**ARTICLE 4:**

The composition of the Technical Committee on Political Affairs, Peace and Security is extended to the Member States accredited to the ECOWAS Commission

- ii) Member States, on economic and socio-political developments at regional level and on activities of ECOWAS Institutions, and recommend required follow up action;
- b) provide Member States with information on the Community which information would enable them to promote sensitisation of the populace about ECOWAS and its activities.
- c) serve as intermediary for the speedy transmission or communication of messages from Community Institutions to Member States.

**ARTICLE 7:**

Meetings of Permanent Representatives provide a platform for the promotion and development of the Community. To this end their mandate shall be to:

- a) foster Member States taking ownership of regional policies and programmes so that they can be incorporated into national development plans with a view to accelerating the realisation of the ECOWAS Vision 2020;
- b) participate alongside Community Institutions in information, sensitisation and advocacy programmes in respect of priority projects and programmes of ECOWAS and of NEPAD;
- c) propose to Member States measures capable of fostering and accelerating the implementation of Community decisions;
- d) advise Member States on the necessary coordination between Ministries and Departments responsible for integration;
- e) carry out tasks upon the invitation of the President of the Commission or which may be assigned to them by Member States.

**ARTICLE 8:**

1. Member States that have not yet done so, shall take necessary steps to:
  - a) be accredited to the ECOWAS Commission, including States that do not yet have diplomatic missions in Nigeria;
  - b) strengthen their diplomatic missions in Nigeria in human and material resources to ensure effective coverage of ECOWAS affairs;
2. Member States shall include their Permanent Representatives in the delegations of their respective countries to the annual statutory meetings of ECOWAS, even when these meetings are held outside the ECOWAS headquarters.

**ARTICLE 9:**

This Supplementary Act shall abrogate all previous contrary provisions.

**ARTICLE 10:**

This Supplementary Act shall be published by the Commission in the Official Journal of the Community within thirty (30) days of the date of signature by the Chairman of Authority. It shall also be published by each Member State in its Official Journal within thirty (30) days of notification by the Commission;

**ARTICLE 11:**

This Supplementary Act shall be an annex to the ECOWAS Treaty of which it is an integral part.

**ARTICLE 12:**

This Supplementary Act shall be deposited with the Commission which shall transmit certified true copies to all Member States. The Commission shall also register it at the African Union, the United Nations Organisation and other organisations as the Council may determine.

**IN WITNESS WHEREOF, WE, THE HEADS OF STATE AND GOVERNMENT  
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES,  
HAVE SIGNED THIS SUPPLEMENTARY ACT**

**DONE AT SANTA (SAL ISLAND) THIS 2ND DAY OF JULY, 2010**

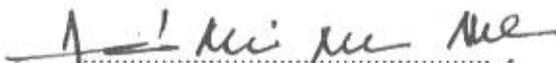
**IN SINGLE ORIGINAL, IN FRENCH, ENGLISH AND PORTUGUESE LANGUAGES,  
ALL THREE (3) VERSIONS BEING EQUALLY AUTHENTIC**



**H. E. Jean-Marie EHOUZOU**  
For and on behalf of the  
President of the Republic of Benin  
Head of State, Head of Government



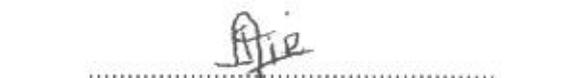
**H. E. Mr. Blaise COMPAORE**  
President of Faso



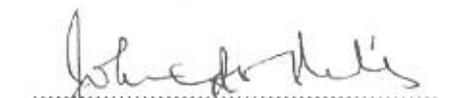
**H.E. Jose Maria PEREIRA NEVES**  
Prime Minister of the Republic of  
Cape Verde



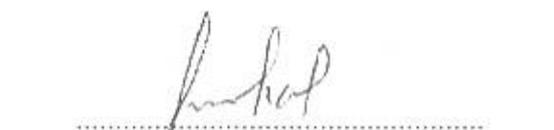
**H.E. Laurant GBAGBO**  
President of the Republic of Côte d'Ivoire



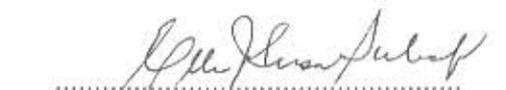
**H.E. Aja Dr. Isatou Njie SAIDY**  
Vice President of the Republic of the Gambia  
For and on behalf of the President of the  
Republic of the Gambia



**H.E. Prof. John Evans Atta MILLS**  
President of the Republic of Ghana



**H.E. Malam Bacai SANHA**  
President of the Republic of Guinea Bissau



**H. E. Mrs. Ellen JOHNSON-SIRLEAF**  
President of the Republic of Liberia

.....  
**H.E. Amodou Toumani TOURE**  
President of the Republic of Mali

  
.....  
**H. E. Dr. Goodluck Ebele Johnathan**  
President of the Federal Republic of  
Nigeria and Commander-In-Chief of the  
Armed Forces of the Federal Republic of  
Nigeria, Chairman of Authority of Heads of  
State and Government of ECOWAS

  
.....  
**H. E. Maitre ABDOULAYE WADE**  
President of the Republic of Senegal

  
.....  
**H. E. Ernest Bai KOROMA, GCRSL**  
President of the Republic of Sierra Leone

  
.....  
**H. E. Koffi ESAW**  
For and on behalf of the President of the Togolese Republic

CHAPTER EIGHT

**SUPPLEMENTARY ACT A/SA.2/03/11  
ON THE LIFTING OF ALL SANCTIONS IMPOSED BY  
ECOWAS ON THE REPUBLIC OF NIGER**

## THE HIGH CONTRACTING PARTIES,

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty as amended, establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of the ECOWAS Declaration of Political Principles adopted in Abuja on 6 July 1991;

MINDFUL of the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security signed in Lome on 10 December 1999;

MINDFUL of the Protocol on Democracy and Good Governance signed in Dakar on 21 December 2001;

MINDFUL of the ECOWAS Convention on Small Arms and Light Weapons; their Ammunition and other Related Materials of 14 June 2006;

MINDFUL of the Principles enshrined in the OAU Solemn Declaration on Security, Stability, Development and Cooperation in Africa, adopted in Abuja on 8 and 9 May, 2000, as well as Decision AHG. DEC.142 (xxv) on the Framework for OAU Response to Unconstitutional Changes of Government, adopted in Algiers in July 1999;

CONSIDERING that contrary to the spirit and letter of the Constitution of Niger and in violation of the ECOWAS Supplementary Protocol on Democracy and Good Governance, the former Government of the Republic of Niger held a Constitutional Referendum on 4 August 2009, thereby amending the Constitution of the country with the view to keeping the former President Mamadou Tandja in power for three (3) years at the end of his second term;

RECALLING Supplementary Act ASP.1/10/09 on the adoption of measures to ensure the restoration of Democratic Governance and respect of the Rule of law in the Republic of Niger;

CONSIDERING the negative attitude of the erstwhile Authorities in Niger, in spite of efforts by ECOWAS and the entire International Community to promote dialogue among political stakeholders in Niger and avoid a setback to democracy which informed the decision of the Authority of Heads of State and Government to impose sanctions on the country in line with Article 45 of the Supplementary Protocol on Democracy and Good Governance;

CONSIDERING that following the overthrow of the Government of President Tandja and subsequent takeover by the Supreme Council for the Restoration of Democracy (CSRDD) all the sanctions prescribed in Article 45 of the Supplementary Protocol on Democracy and Good Governance were applied;

CONSIDERING that after note had been taken of the positive steps taken by the Supreme Council for the Restoration of Democracy and its efforts for the return to constitutional legality in Niger, the Authority of Heads of State and Government decided on 2 July, 2010 to allow the participation of Niger as an observer in ECOWAS meetings at ministerial level from that date until 1st March, 2011, when constitutional legality would have been restored in the country;

NOTING with satisfaction that the Supreme Council for the Restoration of Democracy fulfilled its commitments by organising successfully, peaceful, free, fair and transparent elections on 31st January and 12th March, 2011;

NOTING that the transition Authorities in Niger respected the rule of law and political rights in their country and that the democratisation process is headed in the right direction;

CONSIDERING that there are no reasons for ECOWAS to maintain its sanctions against Niger.

**HEREBY AGREE AS FOLLOWS:**

**Article 1**

All sanctions imposed on the Republic of Niger in accordance with Article 45 of the ECOWAS Supplementary Protocol on Democracy and Good Governance are hereby lifted with immediate effect.

**Article 2**

The President of the Commission shall take all necessary measures to ensure prompt implementation of this Supplementary Act.

**Article 3**

The President of the Commission shall notify Member States, Community Institutions, the African Union, European Union, International Organisation of the Francophonie and the United Nations of this Supplementary Act and seek their support in its implementation;

**Article 4**

This Supplementary Act, which shall enter into force upon signature, shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days. It shall be published by each Member State in its National Gazette within thirty (30) days of notification by the Commission.

**Article 5**

This Supplementary Act shall be deposited with the Commission, which shall forward certified true copies thereof to all Member States and shall register same with the African Union, the United Nations and such other organisations as Council may determine.

**IN WITNESS WHEREOF, WE THE HEADS OF STATE AND GOVERNMENT  
OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES,  
HAVE SIGNED THIS SUPPLEMENTARY ACT**

**DONE AT ABUJA, THIS 24TH DAY OF MARCH, 2010**

**IN SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES,  
ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC.**

**H. E. Dr. Thomas Boni YAYI**  
President of the Republic of BENIN

**H. E. Mr. Blaise COMPAORE**  
President of FASO

**H.E. Jorge BORGES**  
Minister of External Relations  
Republic of CAPE VERDE

**H.E. Jean Marie KACOU GERVAIS**  
Minister of Foreign Affairs  
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President of the Supreme Council  
For the Restoration of Democracy  
Head of State, Republic of Niger

**H. E. Goodluck Ebele JONATHAN, (GCFR)**  
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of the Armed Forces of the Federal Republic  
of Nigeria, Chairman of the Authority  
of Heads of State and Government of  
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President of the Republic of  
Sierra Leone

**H. E. Mr. Faure Essozimna GNASSINGBE**  
President of the Togolese Republic

CHAPTER NINE

**SUPPLEMENTARY ACT A/SA.3/03/11  
ON THE LIFTING OF ALL SANCTIONS IMPOSED BY  
ECOWAS ON THE REPUBLIC OF GUINEA**

## **THE HIGH CONTRACTING PARTIES,**

MINDFUL of Articles 7, 8 and 9 of the ECOWAS Treaty as amended, establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of the ECOWAS Declaration of Political Principles adopted in Abuja on 6 July 1991;

MINDFUL of the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security signed in Lame on 10 December 1999.

MINDFUL of the Protocol on Democracy and Good Governance signed in Dakar on 21 December 2001;

MINDFUL of the ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and other Related, Materials of 14 June 2006;

MINDFUL of the Principles enshrined in the OAU Solemn Declaration on Security, Stability, Development and Cooperation in Africa, adopted in Abuja on 8 and 9 May 2000, as well as Decision AHG, DEC.142 (xxv) on the Framework for an OAU Response to Unconstitutional Changes of Government, adopted in Algiers in July 1999;

MINDFUL of Supplementary Act ASP.2/09/09 on the adoption of measures for the restoration of Democratic Governance and respect for the rule of law in the Republic of Guinea;

RECALLING that at its Extraordinary Summit held on 10 January, 2009 in Abuja, the Authority of Heads of State and Government considered the takeover of government by the National Council for Democracy and Development (CNDD), led at that time by Captain Moussa Dadis Camara, as a setback to democracy and thus suspended Guinea from participating in all meetings of ECOWAS decision-making bodies, until the restoration of constitutional order in that country;

RECALLING also that in order to facilitate the return to democratic governance and promote respect for the rule of law in the Republic of Guinea, the Authority of Heads of State and Government on 17 October, 2009, adopted measures including the imposition of an arms, ammunition and military equipment embargo on Guinea, exclusion of the country from decision-making with regards to exemption requests under the ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and other Related Materials;

CONSIDERING that peaceful presidential elections, universally recognised as free, fair and transparent were held on 27th June 2010 in Guinea;

NOTING that following the elections of 7th November 2010 power was transferred to the democratically elected Government of President Alpha Conde;

CONSIDERING that the transfer of power in Guinea to the democratically elected Government created a conducive atmosphere to the return of democratic governance and respect for the rule of law in Guinea;

NOTING that the aforementioned measures taken by ECOWAS against Guinea are no longer relevant and that there are no reasons to maintain them;

### **HEREBY AGREE AS FOLLOWS:**

#### **Article 1**

The suspension of the Republic of Guinea from participation in all meetings of ECOWAS decision-making bodies is hereby lifted.

## Article 2

The provisions of Articles 5, 6 and 7 of the Supplementary Act A/SP2/01/09 of 17 October 2009 relating to the refusal to grant exemptions to the Government of Guinea to import, export and manufacture light weapons, exclusion of the country from decision-making with regards to exemption requests under the ECOWAS Convention on Small Arms and Light Weapons, their Ammunition and other Related Materials as well as the arms embargo on Guinea are hereby repealed.

## Article 3

The President of the Commission shall take all the necessary measures to ensure prompt implementation of this Supplementary Act.

## Article 4

The President of the Commission shall notify Member States, Community Institutions, the African Union, European Union, and International Organisation of the Francophonie and the United Nations of this Supplementary Act and seek their support in its implementation;

## Article 5

This Supplementary Act, which shall enter into force upon signature, shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days. It shall also be published by each Member State in its National Gazette within thirty (30) days of notification by the Commission.

## Article 6

This Supplementary Act shall be deposited with the Commission which shall forward certified true copies thereof to all Member States and shall register same with the African Union the United Nations and such other organisations as Council may determine.

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HAVE SIGNED THIS SUPPLEMENTARY ACT**

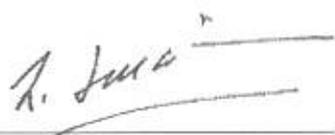
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**H. E. Mr. Faure Essozimna GNASSINGBE**  
President of the Togolese Republic

CHAPTER TEN

**SUPPLEMENTARY ACT A/SP.13/02/12  
ON SANCTIONS AGAINST MEMBER STATES THAT FAIL  
TO HONOUR THEIR OBLIGATIONS TO ECOWAS**

## **THE HIGH CONTRACTING PARTIES,**

MINDFUL of Articles 7, 8 and 9 of the Revised ECOWAS Treaty creating the Authority of Heads of State and Government and defining its functions and composition;

RECALLING that ECOWAS has created supranational bodies whose decisions are binding and therefore, applicable directly and in their entirety, in Community Institutions as well as in Member States, with the aim of enhancing their effectiveness;

RECALLING also that ECOWAS has granted its political and judicial Institutions the capacity to enforce compliance and apply the decisions of its supranational bodies;

CONSIDERING that Article 77 of the ECOWAS Treaty stipulates that the Authority can take sanctions against Member States that fail to honour their obligations to the Community;

CONSIDERING that the Protocol A/SP1/12/01 on Democracy and Good Governance, supplementing the ECOWAS Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security in its Article 45 stipulates that the Community can impose different sanctions on Member States where democracy has been disrupted through whatever means;

CONSIDERING that Article 9 of the Supplementary Protocol A/SP1./01/05 amending the Protocol relating to the Court of Justice grants this Court the competence to consider cases of non-fulfilment by Member States of obligations incumbent upon them by virtue of the ECOWAS Treaty, Conventions and Protocols, Regulations, Decisions and Directives;

NOTING that the community provisions in force do not define the obligations, for which non-application or non-fulfilment exposes Member States to sanctions;

DESIRING to establish appropriate sanctions to ensure suitable, just and equitable application;

CONVINCED that the Community can only impose sanctions which are effective and actually applicable against Member States or their leaders, if it has a well-defined sanctions system;

DESIROUS to adopt such a system which would comprise obligations when unfulfilled, are likely to lead to the imposition of sanctions, bringing together in a single document the range of applicable sanctions and defining the modalities for the implementation of the said sanctions, by specifying in particular, the procedures for imposing and lifting sanctions;

ON THE PROPOSAL of the Meeting of Ministers of Justice of Member States held in Abuja on 16 to 17 May 2011;

ON THE RECOMMENDATION of the sixty-seventh ordinary session of the Council of Ministers held in Abuja from 19 to 21 December 2011;

### **AGREE AS FOLLOWS:**

#### **CHAPTER 1 OBLIGATIONS FOR WHICH NON-FULFILMENT IS LIKELY TO ENGENDER SANCTIONS AGAINST MEMBER STATES**

##### **Article 1: Compulsory Acts to be observed and enforced by Member States.**

Member States shall apply and observe Acts of the Authority and Council of Ministers which include the ECOWAS Treaty, Conventions, Protocols Supplementary Acts, Regulations, Decisions and Directives of the Community.

## **Article 2: Categories of obligations of Member States**

1. The obligations contained in the Acts described in Article 1 of this Supplementary Act are divided into two categories. They are those Acts that aim to create within Member States and at the regional level, an atmosphere of true and lasting peace, void of all threat and infringements to constitutional order and those which aim at strengthening and accelerating the process of regional integration.
2. The following shall among others constitute the obligations of Member States, to:
  - i) respect and protect human rights, the rule of law, democracy and constitutional order;
  - ii) ratify ECOWAS Protocols and Conventions;
  - iii) dismantle tariff and non-tariff barriers which hinder the free movement of persons, goods, the right of residence and establishment;
  - iv) pay all financial obligations in general and in particular apply the texts in the Community Levy;
  - v) promptly apply texts adopting the integration policies, projects and programmes of the Community;
  - vi) apply the mandatory texts described in Article 1 of this Supplementary Act;
  - vii) prohibition of the adoption of measures or positions contrary to democratic governance and respect for the Rule of Law, or likely to constitute either a serious threat to regional security or gross and severe human rights abuses, or trigger a humanitarian disaster;
  - viii) refrain from adopting and implementing all measures likely to subvert or compromise the strengthening the process of regional integration.
3. Judgments of the Court shall be binding on the Member States, the Institutions of the Community and on individuals and corporate bodies.

## **CHAPTER 2**

### **SANCTIONS APPLICABLE IN THE EVENT OF NON-FULFILMENT OF OBLIGATIONS**

#### **Article 3: Principle for Sanctions**

1. Member States or their leaders that fail to honour their obligations to the Community shall be liable to judicial and political sanctions.
2. Leaders of Member States, members of their families and their associates shall also have sanctions imposed on them as stipulated in paragraph 1 of this Article.

#### **Article 4: Purpose of sanctions**

1. The aim of imposing sanctions must be to prevent the non-respect or non-application of mandatory Acts defined in Article 1 above from having harmful effects on the functioning of the Community and its Institutions. It is to prevent that such behaviour by Member States from compromising the implementation of Community programmes and lead to gradual blockage in the activities of the Community.
2. Sanctions must encourage Member States to respect and enforce all mandatory Acts of the Community. They must promote the elimination of all obstacles to regional integration and facilitate the achievement of Community goals.

3. To be effective, sanctions to be imposed against Member States must aim at creating conditions for the restoration of normal constitutional processes, when they are imposed for example, in the case of a breakdown in democracy. They must also allow for the righting of a wrong or the acknowledgment of a right denied a citizen, where this right has been conferred by a mandatory Act. The aim of sanctions must be to strengthen the Community and make her more effective.
4. As far as it is possible, sanctions shall not affect the delivery of humanitarian aid to people in the concerned Member State.

#### **Article 5: Judicial Sanctions**

The Community Court of Justice shall deliver judgments which include but not limited to financial sanctions against Member States in application of Article 24, Paragraph 1 of the Protocol relating to the Community Court of Justice as amended by Article 6 of the Supplementary Article A/SP01/01/05 of 19 January 2005 when it notices that they have failed to honour their obligations as stated in the Community texts.

#### **Article 6: Political sanctions**

Sanctions applicable against Member States that do not honour their obligations to the Community may include:

- (i) suspension of any new loans or new assistance granted by the Community;
- (ii) suspension of disbursements for all ongoing loans, projects and Community assistance programmes;
- (iii) non-acceptance of applications to statutory and professional positions within Community Institutions;
- (iv) suspension of the right to vote;
- (v) suspension from participation in Community activities;
- (vi) non-support of applications presented by Member States to elective positions in international organisations; (vii) refusal to organise meetings in the concerned Member State;
- (viii) suspension of the concerned Member State from all ECOWAS decision-making organs. During the suspension period, the concerned Member State shall continue to pay its contributions to the Community;
- (ix) travel ban on the leaders their families and their associate, notwithstanding community provisions on free movement of persons;
- (x) freeze their financial assets;
- (xi) recall by other Member States of their Ambassadors from the country where there is a breakdown of democracy;
- (xii) embargo on arms entering the concerned Member State;
- (xiii) be a nonstanding for the Chairmanship of the Community;
- (xiv) condemnation and refusal to acknowledge unconstitutional Governments;
- (xv) Peace enforcement or restoration of constitutional order by use of legitimate force.

### **Article 7: Definition of the content of some sanctions**

To facilitate consistent and equal application to all Member States, the sanctions below are defined in the following provisions.

### **Article 8: Suspension from participation in ECOWAS activities**

1. When a Member State is suspended from participating in ECOWAS activities, ECOWAS Institutions shall not invite or admit the representatives of this country to its meetings, regardless of the place where these meetings are held. ECOWAS Institutions shall suspend the implementation or monitoring of all projects and programmes underway in this country.

All consultations with the leaders of the suspended Member State on Community activities shall cease.

2. The leaders of the suspended Member States shall not be members of any committee constituted by ECOWAS to prepare or monitor the implementation of Community projects or to manage or settle issues regarding the Community. No leader of the suspended country shall be a member of any ECOWAS delegation representing the Community before international authorities or in the implementation of any Community activity.
3. The territory of the suspended Member State shall not be used to hold any meeting or event organised or supported by ECOWAS.
4. When a Member State is suspended from participating in the activities of the Community, these activities shall include all activities organised or co-organised by ECOWAS, within as well as outside the subregion.

### **Article 9: Travel ban on leaders, their families and associates**

1. When leaders of a Member State, members of their families and associates are banned from travelling, the other Member States, without prejudice to the fullness of their powers and the relevant provisions of the ECOWAS Protocols on Free Movement of Persons, Goods, the Right of Residence and Establishment, shall:

- a) the sale and/or supply to a country under embargo, by their citizens or from their territory, or through their ships or aircrafts, of weaponry and related materials of all types, including arms and ammunitions, military vehicles and equipment, police equipment and related spare parts;
  - b) entry on the territorial waters of the country under embargo on its territory, of any means of transport carrying weaponry or related materials of all types, including arms and ammunitions, military and police vehicles and related spare parts.
2. When an arms embargo has been decided against a country, the President of the Commission shall not accede to any requests for exemption from the application of the provisions of the ECOWAS Convention on Small Arms and Light Weapons in relation to the prohibition of the transfer of the said arms to the territories of Member States, that the leaders of the country under embargo may make for security reasons, in order to equip public security force or for the organisation of international peacekeeping operations.
- The President of the Commission shall cease to notify the leaders of the country under embargo, of requests for exemption from the application of the Convention on Small Arms and Light Weapons that he may receive from other Member States, and the responses he will give to such requests.
3. Other Member States shall ensure the strict surveillance of the coastal areas, land borders and air spaces, in order to prevent any violation of the arms embargo by the country against which this sanction has been imposed.

#### **Article 12: Ban on standing for Presidential office in Member States**

The perpetrators of Coup d'Etat and their accomplices, governments seeking to remain in power and prevent any possibility of alternation by changing the constitution, as well as participants and beneficiaries of all other anti-constitutional changes shall not stand for presidential office in their respective Member State. ECOWAS and its Member States shall not recognise governments arising from power obtained through such means.

#### **Article 15:**

#### **Allegations of non-compliance or non-fulfilment of obligations by Member States**

1. Cases of non-compliance or non-fulfilment by Member States of their obligations to the Community may be reported by any individual or corporate entity of a Member State, any Community Institution, Member State and may be ascertained by the Council of Ministers of the Authority of Heads of State and Government.
2. The allegations by individuals and legal entities shall be addressed to National Authorities responsible for regional integration or the President of the Commission. When these allegations are addressed to national authorities, the latter shall forward same to the President of the Commission without delay. Allegations by Institutions shall be addressed to the President of the Commission. All allegations shall be presented to the Council of Ministers through the President of the Commission.
3. The President of the Commission shall notify the Member State concerned of the allegation against it and grant it a period of thirty (30) days with effect from the date of notification, to honour the obligations which it is accused of failing to honour, or present a case in its defence.
4. At the expiration of the afore-mentioned thirty (30) day deadline, the President of the Commission shall have a thirty (30) day period to verify whether the concerned Member States has honoured its obligations to the Community. If this is the case, the President of the Community shall inform the initiator of the allegation and present a report to the Council of Ministers at its next Session.

#### **Article 16:**

#### **Indictment of the Member State that fails to honour its obligations to the Community**

1. If, following investigations by the President of the Commission, it is revealed that the Member State has failed to respect or fulfil its obligations, and that after the start of the investigations, the concerned Member State has made no effort to remedy this, the President of the Commission shall make a report contained in a Memorandum addressed to the Council of Ministers.
2. The Council of Ministers shall consider the Memorandum presented by the President of the Commission and set a deadline for the concerned Member State within which it must honour the obligations it is being accused of having failed to respect or fulfil.
3. If at the end of the deadline set by the Council of Ministers, the concerned Member State has still not fulfilled its obligations, the Council of Ministers shall make recommendations to the Authority of Heads of State and Government on the sanctions to be imposed on the concerned Member State, their leaders, members of their families and associates. The Authority shall impose appropriate sanctions.
4. Sanctions imposed against any Member State shall not be subject to appeal before the Community Court of Justice or any other court.

#### **Article 17: Suspension of application of sanctions against a Member State**

1. Any Member State, that temporarily finds itself unable to honour the obligations described in Articles 1 and 2 of this Supplementary Act for reasons other than disasters or exceptional circumstances that seriously affect its economy, peace, security and political stability, shall inform the President of the Commission of the circumstances without delay.
2. When, in application of paragraph 1 of this Article, the President of the Commission is informed, the latter shall make a report to the Council of Ministers requesting that no sanctions

be taken against the concerned Member State or that the provisions on sanctions be benevolently enforced on the Member State, until such a time as the disasters or exceptional circumstances affecting the country no longer exist.

#### **Article 18: Notification of sanctions**

1. Member States shall be immediately notified of sanctions imposed on them. Other Member States as well as all Community Institutions shall also receive notifications by the President of the ECOWAS Commission.
2. The Act referred to in paragraph 1 of this Article shall be published in the Official Journal of the Community by the ECOWAS Commission.

#### **Article 19: Application of sanctions and monitoring of their implementation**

1. All Member States and Community Institutions shall take the necessary measures to ensure that the Decisions by which sanctions are imposed are fully applied.
2. The President of the ECOWAS Commission shall put in place a Committee for monitoring the implementation of sanctions. The Commission shall, within its means, render the assistance required by the concerned Member State to carry out the obligations it has failed to honour.

#### **Article 20: Suspension of sanctions**

1. If no session of the Council of Ministers and the Authority of Heads of State is held in the two (2) months following the observation by the President of the Commission that the Member State concerned has fulfilled its obligations, the President of the Commission shall propose to the current Chairman of the Council of Ministers, who is acting on behalf of the Authority, to suspend the sanctions taken against the concerned Member State.
2. The President of the Commission shall inform the Council of Ministers of the recommendations of its Chairman and the suspension decision taken by the Chairman of the Authority at the next session of the Council.
3. A Member State which fails to honour its obligations shall after sanctions proceedings have been commenced against it, present a request to the Council of Ministers through the President of the Commission, for a special time frame allowing it to ensure the respect and fulfilment of its obligations. In this case, the Chairman of the Council of Ministers, on behalf of the Council of Ministers, shall make recommendations to the Chairman of the Authority of Heads of State and Government on the lifting of sanctions. The Chairman later acting on behalf of Authority, after private consultation with his peers, may accede to the request.
4. If at the end of the special time frame, the defaulting Member State honours its obligations, no sanction procedure will be commenced against it. If the Member State does not honour its obligations, the Authority shall impose appropriate sanctions against it.

#### **Article 21: Lifting of Sanctions**

1. Once it has honoured its obligations, the Member State under sanctions shall inform the President of the Commission of its compliance. The President of the Commission, after ensuring that this is the case, shall present a report to the Council of Ministers by way of a Memorandum. The Council of Ministers, after having noted that the sanctions are no longer necessary, shall recommend their immediate removal to the Authority of Heads of State and Government.

2. Sanctions shall be lifted if, from the opinion of the Heads of State and Government, and on the basis of a substantiated report prepared by an independent body set up by the President of the Commission, the concerned Member State failed to honour its obligations due to reasons and circumstances beyond its control and if, the defaulting Member State satisfies conditions allowing for the sanctions against it to be lifted.

## **CHAPTER 4 FINAL PROVISIONS**

### **Article 22: Amendment and Revision**

1. Any Member State, the Council of Ministers or the ECOWAS Commission may submit proposals for the amendment or revision of this Supplementary Act.
2. Any proposal not originating from the ECOWAS Commission shall be submitted to it. The Commission shall notify Member States no later than thirty (30) days after receipt of such proposals. The Authority shall consider proposals on amendments and revisions after the three (3) month notice period given to Member States.
3. Amendments and revisions shall be adopted by the Authority and shall enter into force upon their publication in the Official Journal of the Community.

### **Article 23: Publication**

This Supplementary Act shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signing by the Heads of State and Government. It shall also be published by each Member State in its National Gazette within thirty (30) days of notification by the Commission.

### **Article 24: Entry into force**

This Supplementary Act shall enter into force upon its publication. Consequently, Member States shall undertake to commence implementation of its provisions upon its entry into force.

### **Article 25: Miscellaneous Provisions**

The Supplementary Act shall supersede any other contrary provisions.

### **Article 26: Depository Authority**

This Supplementary Act shall be deposited at the Commission which shall forward certified copies to all Member States and shall register same with the African Union, United Nations Organisation and all other organisations selected by the Council.

**IN FAITH WHEREOF, WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS),  
HAVE SIGNED THIS SUPPLEMENTARY ACT.**

**DONE AT ABUJA, THIS 17th DAY OF FEBRUARY, 2012.**

**IN SINGLE ORIGINAL IN ENGLISH, FRENCH AND PORTUGUESE LANGUAGES, ALL  
TEXTS BEING EQUALLY AUTHENTIC.**

**H. E. Thomas Boni YAYI**  
President of the Republic of Benin

**H. E. Blaise COMPAORE**  
President of BURKINA FASO

**H.E. Jose Maria Pereira NEVES**  
Prime Minister and Head of the Government,  
of the Republic of CAPE VERDE

**H. E. Alassane OUATTARA**  
President of of the Republic of  
COTE D'IVOIRE

**H. E. Abdou KOLLEY**  
Minister of Fisheries, Water Resources  
and National Assembly Matters  
for and on behalf of the  
President of the Republic of THE GAMBIA

**H.E. Alhaji Muhammad MUMUNI**  
Minister of Foreign Affairs and Regional  
Integration, for and on behalf of the  
President of the Republic of GHANA

**H.E. Alpha CONDE**  
President of the Republic of  
GUINEA

**H.E. Mrs. Ellen JOHNSON-SIRLEAF**  
President of the Republic Liberia

**H.E. Raimundo PEREIRA**  
Interim President of the Republic of  
GUINEA BISSAU

**H. E. Badara Aliou MACALOU**  
Minister of African Integration and  
Maliens Abroad, for and on behalf of the  
President of the Republic of Mali

**H.E. Issoufou MAHAMADOU**  
President of the Republic of NIGER

**H. E. Goodluck Ebele JONATHAN, GCFR**  
President of the Federal Republic of NIGERIA,  
Chairman of the Authority of Heads of State  
and Government of ECOWAS

**H.E. Mamadou NDIAYE**  
Ambassador, Director of Cabinet  
to the Minister of Foreign Affairs,  
for and on behalf of the  
President of the Republic of SENEGAL

**H. E. Ernest Bai KOROMA**  
President of the Republic of SIERRA LEONE

**H.E. Elliott OHIN**  
Minister of Foreign Affairs and Cooperation,  
for and on behalf of the President of the Togolese Republic.