COMMUNIDADE ECONOMICA DOS
ESTADOS DA AFRICA DO OESTE

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

FIFTY FOURTH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22nd December, 2018

DECISION A/DEC.1 /12/18 RELATING TO THE CREATION OF THE ECOWAS REGIONAL STABILIZATION AND DEVELOPMENT FUND

THE AÜTHORITY OF HEADS OF STATE AND GOVERNMENT,

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;

MNDFUL of Articles 56 and 58 of the ECOWAS Revised Treaty urging Member States to safeguard and consolidate relations conducive to the maintenance of peace , stability and security within the region;

MINDFUL of Article 71 of the said Treaty which provides for special budgets to meet extra budgetary expenditure of the Community;

MINDFUL of Article 83 which states that ECOWAS may conclude co - operation Agreements with third countries and International Organization;

CONSIDERING the vulnerability of the region to conflict and endemic diseases and the need to address these issues through medium and long term economic programs and projects in all Member states especially vulnerable States;

RECOGNIZING the need to establish a Regional Stabilization and Development Fund, a flexible funding instrument to address economic stabilization in the immediate term in newly emerging crises, conflicts, migration, post conflict and post Ebola Member states as well as other fragile Member states amongst others in a timely manner;

ON THE RECOMMENDATION of the Eighty First Ordinary Session of the Council of Ministers held in Abuja from 14 to 15 December 2018;

COMMUNIDADE ECONOMICA DOS
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FIFTY FOURTH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22nd December, 2018

DECISION A/DEC.1 /12/18 RELATING TO THE CREATION OF THE ECOWAS REGIONAL STABILIZATION AND DEVELOPMENT FUND

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RECOGNIZING the need to establish a Regional Stabilization and Development Fund, a flexible funding instrument to address economic stabilization in the immediate term in newly emerging crises, conflicts, migration, post conflict and post Ebola Member states as well as other fragile Member states amongst others in a timely manner;

ON THE RECOMMENDATION of the Eighty First Ordinary Session of the Council of Ministers held in Abuja from 14 to 15 December 2018;

DECIDES

ARTICLE 1

The creation of the ECOWAS Regional Stabilization and Development Fund is hereby adopted.

ARTICLE 2

1. This Decision 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.

DONE IN ABUJA THIS 22nd DAY OF DECEMBER 2018

M Buhari.....

MUHAMMADU BUHARI

CHAIRMAN

FOR THE AUTHORITY

COMMUNIDADE ECONOMICA DOS
ESTADOS DA AFRICA DO OESTE

ECONOMIC COMMUNITY OF
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COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
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FIFTY FOURTH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22nd December, 2018

SUPPLEMENTARY ACT A/SA.1/12/18 ADOPTING THE ECOWAS COMMON INVESTMENT CODE

THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT,

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;

MINDFUL of Article 3 (2) (f) and 3 (2) (i) of the said Treaty which advocates the promotion of joint ventures by private sector enterprises and other economic operators, in particular through the adoption of a regional agreement on cross border investments; the harmonization of national investments codes leading to the adoption of a single Community Code;

MINDFUL of Protocol A/P.1/5/79 on Free Movement of Persons, Residence and Establishment amended by Supplementary Act A/SA.1/07/14

MINDFUL of Supplementary Act A/SA.1/06/09 amending Decision A/DEC.17/01/06 relating to the Adoption of the ECOWAS Common External Tariff;

MINDFUL of Supplementary Act A/SA.1/12/08 Adopting Community Competition Rules and the Modalities of their Application within ECOWAS;

MINDFUL of Supplementary Act A/SA.2/12/08 on the Establishment, Functions and Operation of the Regional Competition Authority for ECOWAS;

MINDFUL of Supplementary Act A/SA.3/12/08 Adopting the Community Rules on Investment and the Modalities for the Implementation within ECOWAS;

MINDFUL of Supplementary Act A/SA. 2/12/18 Adopting the ECOWAS Investment Policy;

CONSIDERING that the development a vibrant and dynamic private sector will help create job opportunities, promote technology transfer, support long term economic growth and contribute effectively to fight poverty;

ACKNOWLEDGING the need to promote and consolidate within ECOWAS an environment conducive to the development of the activities of the private sector and to make the later an engine of economic growth;

RECOGNIZING the essential role that domestic and foreign investment when accompanied by appropriate environmental and labour policies can play in the sustainable development of the region and poverty reduction, through increased productive capital mobilisation, job creation and human development, improved technology and technology transfer;

DESIROUS of adopting Common Regional Rules on Investment.

UPON THE RECOMMENDATION of the Eighty First Ordinary Session of the Council of Ministers held from 13 to 15 December 2018 at Abuja, Nigeria.

ON THE OPINION OF THE ECOWAS Parliament at its 2nd Session held on 5th December 2018 at Abuja.

HEREBY AGREES AS FOLLOWS

ARTICLE 1

The ECOWAS Common Investment Code attached as an annex is hereby adopted.

ARTICLE 2

The signing of this Code will not affect other Treaties signed by Member States before the coming into force of this Code unless the Treaties signed is contradictory to the provisions of the code.

ARTICLE 3

1. 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.
2. This Supplementary Act shall be an annex to the ECOWAS Treaty of which it is an integral part.

ARTICLE 4

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 Organization and other organizations 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 IN ABUJA THIS 22nd DAY OF DECEMBER 2018

IN SINGLE ORIGINAL, IN ENGLISH FRENCH, AND PORTUGUESE, ALL THREE (3) VERSIONS BEING EQUALLY AUTHENTIC

S. E. PATRICE ATHANASE TALON
Président de la République du BENIN

S. E. ROCH MARC CHRISTIAN KABORE
Président du BURKINA FASO

S.E. JORGE CARLOS DE ALMEIDA FONSECA
Président de la République du CAPO VERDE

S. E. ALASSANE OUATTARA
Président de la République
de COTE D'IVOIRE

S.E. ADAMA BARROW
Président de la République de
GAMBIE

S.E. NANA ADDO DANKWA AKUFO-ADDO
Président de la République du GHANA

S.E. ALPHA CONDE
Président de la République de
GUINEE

S. E. JOSE MARIO VAZ
Président de la République de
GUINEE BISSAU

S. E. GEORGE MANNEH WEAH
Président de la République du LIBERIA

S. E. IBRAHIM BOUBACAR KEITA
Président de la République du MALI

S. E. ISSOUFOU MAHAMADOU
Président de la République du NIGER

S. E. MUHAMMADU BUHARI
Président, Commandant en Chef des
Forces Armées de la République
Fédérale du NIGERIA

S. E. MACKY SALL
Président de la République du SENEGAL

S.E. JULIUS MAADA BIO
Président de la République
de la SERRA LEONE

S.E. Faure Essozimna GNASSINGBE
Président de la République TOGOLAISE

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

54TH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22ND DECEMBER, 2018

SUPPLEMENTARY ACT A/SA.4/12/18 ADOPTING THE ECOWAS MASTER PLAN FOR THE DEVELOPMENT OF REGIONAL POWER GENERATION AND TRANSMISSION INFRASTRUCTURE 2019 – 2033

THE HIGHER 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 28 of the said Treaty on the promotion, cooperation, integration and development of the energy projects and sectors of the ECOWAS Member States;

MINDFUL of the Decision A/DEC.5/12/99 of the Twenty-second summit of the Authority of the Heads of State and Government of ECOWAS held in Lomé on December 10th, 1999, relating to the establishment of the West African Power Pool (WAPP);

MINDFUL of the Decision A/DEC.18/01/06 of the Twenty-ninth Summit of the Authority of Heads of State and Government in Niamey on January 12th, 2006, relating to the adoption of Articles of Agreement for the establishment and functioning of the WAPP;

MINDFUL of the Decision A/DEC. 20/01/06 of the Twenty-ninth Summit of the Authority of Heads of State and Government in Niamey on January 12th, 2006, relating to the establishment of the WAPP General Secretariat as a specialized institution of ECOWAS;

MINDFUL of the Supplementary Act A/SA.4/01/08 of the Thirty-third Summit of the Authority of Heads of State and Government held in Ouagadougou on January 18th, 2008, adopting the Emergency Power Supply Security Plan (EPSSP);

MINDFUL of Supplementary Act A/SA.12/02/12 of the fortieth Summit of the Authority of Heads of State and Government held in Niamey on February 17th, 2012, adopting the Revised Master Plan for the Generation and Transmission of the Electrical Energy of the ECOWAS Member States;

CONSIDERING that the priority WAPP projects are at different stages of implementation and that their commissioning should result in the implementation of a power pool mechanism for the integration and exploitation of the national systems in a unified regional energy market with the ultimate goal of providing reliable and regular energy at competitive costs in the medium and long terms to the West African citizens;

RECOGNIZING that the 2012 Master Plan requires updating to take into account among others, the ongoing investments within ECOWAS Members States, updates of national power generation and transmission Master Plans, the renewed drive of the sub-region to better integrate renewable energy resources into the energy mix, the forthcoming interconnection of the national power systems of the ECOWAS mainland countries, as well as the near-term commissioning of the WAPP Information and Coordination Center (ICC) and operationalization of the regional electricity market within the ECOWAS region;

NOTING that the development of the electricity sub-sector of the ECOWAS region to address the needs of the peoples in the region requires massive investments;

DESIROUS of putting in place a coherent framework and optimize investments in the electricity sub-sector of the ECOWAS region;

RECALLING the Financing Agreement N° ROC/FED/39-384 of April 20th, 2017, between the European Commission on the one hand, and the West African Economic and Monetary Union Commission as well as the Economic Community of West African States Commission on the other hand, relating to the "Programme for the Improvement of Governance in the Energy Sector of West Africa";

RECALLING that the ECOWAS Master Plan for the Development of Regional Power Generation and Transmission Infrastructure 2019 – 2033 has been considered in Cotonou from September 19 to 22, 2018, and that its adoption was recommended to the WAPP Executive Board and General Assembly by the WAPP Strategic Planning and Environmental Committee (SPEC), in collaboration with the Experts from WAPP Member Utilities as well as Ministries in charge of energy of ECOWAS Member States, ECOWAS Commission, UEMOA Commission, sub-regional organizations involved in the electricity sub-sector, as well as WAPP Technical and Financial Partners;

CONSIDERING that at its 13th Session held in Cotonou on November 9th, 2018, the WAPP General Assembly considered and adopted through Decision WAPP/85/DEC.09/11/2018, the conclusions of the ECOWAS Master Plan for the Development of the Regional Power Generation and Transmission Infrastructure 2019 – 2033, and also recommended it to the Meeting of ECOWAS Ministers of Energy, for adoption;

CONSIDERING that the 13th Meeting of ECOWAS, Ministers In-Charge of Energy held in Abidjan in December 4th 2018 adopted the ECOWAS Master Plan for the Development of the Regional Power Generation and Transmission Infrastructure 2019 – 2033, and also recommended it to the Eighty-first Ordinary Session of the Council of Ministers to adopt and subsequently submit it to the next Summit of ECOWAS Heads of States and Government for adoption through Supplementary Act;

ON THE RECOMMENDATION of the Eighty-first Ordinary Session of the Council of Ministers held in Abuja, on 13 and 15 December 2018,

HEREBY AGREE AS FOLLOWS:

ARTICLE 1:

This Supplementary Act hereby adopts the ECOWAS Master Plan for the Development of Regional Power Generation and Transmission Infrastructure 2019 – 2033 for a total amount of thirty six billion and three hundred and ninety million US Dollars (USD 36,390,000,000 USD).

ARTICLE 2:

The list of the regional priority projects selected under the 2019 – 2033 Master Plan is attached as annex and the said projects are summarized by category in the table below:

Category of project	No.	Cost (US$ billion)
Generation Projects (15.49 GW)	47	25.91
Transmission Line Projects (22,932 km)	28	10.48
TOTAL	**75**	**36.39**

ARTICLE 3:

Within the framework of the implementation of the ECOWAS Master Plan for the Development of Regional Power Generation and Transmission Infrastructure 2019 – 2033, WAPP shall:

i. Monitor very closely the infrastructure programs of other sub-regional organizations involved in the electricity sub-sector such as OMVG, OMVS, NBA, CEB, and MRU;

ii. Support ECOWAS Member States realize at national levels and if deemed viable, an additional potential of variable renewable energy projects that was identified by the Consultant in charge of the preparation of the ECOWAS Master Plan for the Development of Regional Power Generation and Transmission Infrastructure 2019 – 2033;

iii. Pursue other opportunities related to renewable energy deployment such as the hybridization of hydropower and thermal power plants, the development of floating photovoltaic technologies, the deployment of storage technologies (including battery), and implement related projects should they be proven beneficial;

iv. Deploy supplementary measures aimed at further consolidating the synchronism and stability of the WAPP interconnected system in order to achieve its optimal operation that shall in turn, facilitate the functioning of the regional electricity market;

v. Continue to engage WAPP Technical and Financial Partners to provide support for the rapid development of the backup facility for the WAPP Information and Coordination Center;

Support WAPP Member Utilities prepare and implement Action Plans aimed at improving their efficiency and performance;

vi. Develop a regional approach to address some of the challenges faced by the Distribution Utilities of the WAPP, in particular, loss reduction and revenue collection;

vii. Continue the Capacity Building/Reinforcement of WAPP Member Utilities and accelerate the development of the WAPP Centers of Excellence.

ARTICLE 4:

In order to achieve a diligent and efficient realization of the new Master Plan, the different stakeholders shall promote the:

i. Further deployment of institutional frameworks that reflect the common implementation of regional projects such as the creation of Special Purpose Companies (SPC), like TRANSCO CLSG or Joint Project Management Units like Northcore or OMVG Loop;

ii. Identification of new sources of financing for the implementation of Resettlement Action Plans (RAP) and Environmental and Social Management Plans (ESMP) from Development Finance Institutions and possibly, pre-financing by the private sector;

iii. Scaling-up of private sector participation in the development of regional variable renewable energy projects. This could include, among others, the development of large renewable energy (solar and wind) priority projects through Auctions involving the « plug-and-play » scheme;

iv. Diversification of financing resources for the realization of the priority projects that could include Green Climate Fund and enhanced private sector participation;

v. Reinforcement of the WAPP to ensure a coordination between national planning and the ambitions of the regional masterplan, in particular through the development of a reference planning software for the region;

vi. Increased coordination among the Development Finance Institutions (DFIs) supporting regional projects, in particular regarding the harmonization of procurement guidelines for reginal projects, the harmonization of disbursement conditions where various DFIs are involved in the same project and the coordination with export-import banks active in the projects' countries;

vii. Enhancing of funding for project pre-investment studies including the rapid operationalization of the Fund for the Development and Financing of the ECOWAS Transport and Energy Sectors (FODETE) to fund project preparation activities;

viii. Reinforcement of the WAPP to extend its coordination and information sharing activities beyond the Member utilities and the WAPP Technical and Financial Partners (TFP) to reach other Actors within the electricity sub-sector such as National Regulators, other high-level government entities involved in the electricity sub-sector, Manufacturing and Industry, and other financing institutions (national export-import banks, investment funds, etc);

ix. Setting-up of rewarding and strategic partnerships that are fully aligned with the priorities of the Region and shall, among others, facilitate the implementation of the Master Plan.

ARTICLE 5:
The countries that have been identified to host the regional solar and/or wind power parks shall grant lands with free-zone status at appropriate target locations.

ARTICLE 6:
WAPP shall put in place the Back-up Facility of the Information and Coordination Centre (ICC) and provide it with a complete communication system to ensure, among other things, coordinated, efficient and stable exchanges of electrical energy in the event of unavailability of the main ICC.

ARTICLE 7: The ECOWAS Commission shall provide WAPP with the required support for resource mobilization with a view to accelerating the implementation of this Master Plan.

ARTICLE 8:
The President of the ECOWAS Commission and the WAPP Secretary General shall, each within his own purview, take the necessary measures to ensure effective implementation of this Supplementary Act.

ARTICLE 9:
This Supplementary Act shall enter into force upon its signature and shall be published by the Commission in the Official Journal of the Community within thirty (30) days after its publication. It shall also be published by each Member State in its National Gazette upon notification thereof by the Commission.

ARTICLE 10:
This Supplementary Act shall be deposited with the Commission which shall transmit certified true copies thereof to all Member States and register it with the African Union, the United Nations Organisation and such other Organisation as Council may determine.

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

DONE IN ABUJA, THIS 22nd DAY OF DECEMBER 2018

SIGNED ON THIS..... DAY OF DECEMBER 2018

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

2019 - 2033 Master Plan : Priority Projects – GENERATION

	Project	Capacity (MW)	Approximate Cost (US$ m)	Estimated Date of Commissioning	
1	Early POWER Combined Cycle in Ghana	300	390	2019	Ghana
2	GPGC Combined Cycle in Ghana	170	221	2019	Ghana
3	Kaduna Thermal in Nigeria	215	280	2019	Nigeria
4	Wind Farm in Senegal	150	230	2019-2021	Senegal
5	Gouina Hydropower (OMVS)	140	462	2020	OMVS
6	Sambangalou Hydropower (OMVG)	128	454	2020	OMVG
7	Azito IV Combined Cycle in Côte d'Ivoire	253	302	2020	Côte d'Ivoire
8	Amandi Combined Cycle in Ghana	240	312	2020	Ghana
9	OKPAI Combined Cycle in Nigeria	450	585	2020	Nigeria
10	Souapiti Hydropower in Guinea	450	1 350	2020	Guinea
11	Gribo-Popoli Hydropower in Côte d'Ivoire	112	345	2021	Côte d'Ivoire
12	Ciprel V Combined Cycle in Côte d'Ivoire	412	505	2021	Côte d'Ivoire
13	Salkadamna Coal Thermal in Niger	200	573	2021	Niger
14	Zungeru Hydropower in Nigeria	700	1 200	2022	Nigeria
15	Fomi Hydropower in Guinea	90	620	2022	Guinea
16	Rotan Combined Cycle in Ghana	330	429	2022	Ghana
17	WAPP PV Solar Park in Burkina Faso	150	139	2022-2024 Recommended	WAPP
18	WAPP PV Solar Park in Mali	150	139	2022-2024 Recommended	WAPP
19	WAPP PV Solar Park in Cote d'Ivoire	150	143	2022 - 2024 Recommended	WAPP
20	Amaria Hydropower in Guinea	300	600	2023	Guinea
21	Bumbuna II Hydropower in Sierra Leone	143	358	2023	Sierra Leone
22	Louga Hydropower in Côte d'Ivoire	246	647	2023	Côte d'Ivoire
23	Grand Kinkon Hydropower in Guinea	291	350	2023 Recommended	Guinea
24	Boutoubre Hydropower in Côte d'Ivoire	150	343	2023 Recommended	Côte d'Ivoire
25	WAPP Maria Gleta Combined Cycle in Benin	450	585	2023 Recommended for the 1st CT	WAPP
26	WAPP PV Solar Park in The Gambia	150	130	2023-2025 Recommended	WAPP
27	Koukoutamba Hydropower (OMVS)	294	689	2024	OMVS
28	Mambilla Hydropower in Nigeria	3 050	5 800	2024	Nigeria
29	WAPP PV Solar Power Park in Benin	150	120	2024 - 2026 Recommended	WAPP
30	Alaoji II Thermal in Nigeria	285	371	2025	Nigeria
31	Morisananko in Guinea (Hybrid PV – Hydro)	200	353	2025 Recommended	WAPP
32	Bonkon Diara Hydropower in Guinea	174	211	2025 Recommended	WAPP
33	Saint Paul Hydropower Reservoir In Liberia	584	511	2025 (1st Phase) Recommended	WAPP
34	Regional PV Solar Park in Nigeria (Gwiwa, Jigawa Sta	1000	695	2025 - 2029 Recommended	Nigeria
35	Adjaralla Hydropower (Togo-Benin)	147	333	2026	Togo,Benin
36	WAPP PV Solar Power Park in Ghana	150	108	2026 - 2027 Recommended	WAPP
37	San Pedro Coal Thermal in Côte d'Ivoire	700	1 900	2026 - 2029	Côte d'Ivoire
38	Tiboto Hydropower (Côte d'Ivoire-Liberia)	225	599	2028	Côte d'Ivoire, Liberia
39	WAPP PV Solar Power Park in Togo	150	90	2028 - 2030 Recommended	WAPP
40	Boureya Hydropower (OMVS)	114	448	2029 Recommended	OMVS
41	WAPP Aboadze Combined Cycle in Ghana	450	585	2029 Recommended	WAPP
42	WAPP PV Solar Park in Niger	150	90	2030 Recommended	WAPP
43	Wind Farm in Nigeria	300	190	2030 Recommended	WAPP
44	Mano Hydropower (MRU)	180	487	2030 Recommended	WAPP/MRU
45	Songon Thermal in Côte d'Ivoire	369	480	2031 Recommended	Côte d'Ivoire
46	WAPP PV Solar Power Park in Burkina Phase II	150	84	2031 Recommended	WAPP
47	WAPP PV Solar Power Park in Mali Phase II	150	77	2032 Recommended	WAPP
	TOTAL	15492	25 912		

2019 - 2033 Master Plan: Priority Projects – TRANSMISSION

	Project	Approximate Length [km]	Approximate Cost (US$ m)	Estimated Date of Commissioning	
1	330 kV Ghana - Togo - Benin Interconnection	340	122	2019	WAPP
2	225 kV Laboa - Boundiali - Ferkessedougou Transmission Line in Côte d'Ivoire	310	115	2019	Côte d'Ivoire
3	225 kV Kayes (Mali) - Tambacounda (Senegal) Transmission Line *[Part of the Manantali II Project of OMVS]*	288	94	2020	OMVS
4	225 kV Côte d'Ivoire - Liberia - Sierra Leone - Guinea (CLSG) Interconnection	1 303	517	2020	TRANSCO
5	225 kV 2nd Circuit for Côte d'Ivoire - Liberia - Sierra Leone - Guinea (CLSG) Interconnection	1 303	131	2020	TRANSCO
6	225 kV OMVG Interconnection involving Senegal, The Gambia, Guinea Bissau, Guinea	1 677	722	2020	OMVG
7	225 kV Guinea - Mali Interconnection	1 074	436	2021	WAPP
8	225 kV Bamako - Manantali Transmission line in Mali *[Part of the Manantali II Project of OMVS]*	317	85	2021	OMVS
9	225 kV Kayes (Mali) - Kiffa (Mauritania) Transmission Line *[Part of the Manantali II Project of OMVS]*	420	184	2022	OMVS
10	330 kV WAPP North Core Nigeria - Niger - Benin/Togo - Burkina Interconnection	832	541	2022	WAPP
11	330 kV Bolgatanga (Ghana) - Bobo Dioulasso (Burkina) - Sikasso (Mali) Interconnection	555	341	2022 Recommended	WAPP
12	225 kV Manantali (Mali) - Boureya (Guinea) - Koukoutamba (Guinea) - Linsan (Guinea) Transmission Line *[Part of the Manantali II project of OMVS]*	462	166	2024	OMVS
13	225 kV Labé - Koukoutamba Transmission Line (OMVS)	115	50	2024 recommended	OMVS
14	225 kV Fomi (Guinea) - Boundiali (Côte d'Ivoire) Interconnection	380	96	2025 Recommended	WAPP
15	225 kV Segou (Mali) - Bamako (Mali) Transmission Line	290	105	2025 Recommended	WAPP
16	330 kV WAPP Median Backbone Nigeria - Benin - Togo - Ghana - Côte d'Ivoire Interconnection	1 350	813	2025 Recommended	WAPP
17	330 kV WAPP Coastal Transmission Backbone Reinforcement	400	281		WAPP
	1st Phase: Nigeria - Benin Interconnection Reinforcement			*2025 Recommended*	WAPP
	2nd Phase: Benin - Togo - Ghana Interconnection Reinforcement			*2028 recommended*	WAPP
18	225 kV San Pedro (Côte d'Ivoire) - Buchanan (Liberia) Interconnection	520	129	2028	WAPP
19	330 kV Côte d'Ivoire - Ghana Interconnection Reinforcement Project	387	156	2029	WAPP
20	225 kV Boundiali (Côte d'Ivoire) - Bougouni (Mali) Interconnection	330	96	2029	WAPP
21	225 kV OMVG Western Segment Reinforcement involving Senegal, The Gambia, Guinea Bissau, Guinea	800	301	2030 recommended	OMVG
22	330 kV 2nd North - South Trasmission Line in Ghana	750	426	2030 recommended	Ghana
23	330 kV WAPP Eastern Backbone in Nigeria	1 856	966	2033	Nigeria
24	330 kV WAPP Western Backbone Senegal - The Gambia - Guinea Bissau - Guinea - Mali Interconnection to connect to 330 kV Ghana - Burkina - Mali Interconnection	1 600	912	2033 Recommended	WAPP
25	330 kV Bobo Dioulasso (Burkina) - Ferkessedougou (Côte d'Ivoire) to link the 330 kV WAPP Western Backbone to the 330 kV WAPP Median Backbone	213	126	2033 Recommended	WAPP
26	330 kV Nigeria - Niger Interconnection Reinforcement	510	332	2033 Recommended	WAPP
27	Interconnection WAPP (Senegal/OMVS) - Northern Africa through Morocco	1 250	*615*	2033 Recommended	WAPP
28	Interconnection WAPP (Nigeria) - Central African Power Pool (Inga)	3 300	*1 622*	2033 Recommended	WAPP
	TOTAL	22 932	10 480		

H.E. PATRICK ATHANASE TALON
President of the Republic of Benin

H.E. ROCH MARC CHRISTIAN KABORE
President of Burkina Faso

H.E JORGE CARLOS DE ALMEIDA FONSECA
Prime Minister of Cape Verde

H.E. ALASSANE OUATTARA
President of the Republic Côte d'Ivoire

H.E. ADAAMA BARROW
President of the Republic of The Gambia

H.E. NANA ADDO DANKWA AKUFO-ADDO
President of the Republic of Ghana

H.E. ALPHA CONDE
President of the Republic of Guinea

H.E. JOSE MARIO VAZ
President of the Republic of Guinea Bissau

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President of the Republic of Liberia

H.E. IBRAHIM BOUBACAR KEITA
President of the Republic of Mali

H.E. ISSOUFOU MAHAMADOU
President of the Republic of Niger

H.E. MUHAMMADU BUHARI
President, Commander-in Chief of the Armed Forces of the Federal Republic of Nigeria

H.E. MACKY SALL
President of the Republic of Senegal

H.E. JULIUS MAADA BIO
President of the Republic of Sierra Leone

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

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

COMMUNIDADE ECONOMICA DOS
ESTADOS DA AFRICA DO OESTE

FIFTY FOURTH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22nd December, 2018

SUPPLEMENTARY ACT A/SA.6/12/2018 RELATING TO MUTUAL ASSISTANCE AND COOPERATION BETWEEN THE CUSTOMS ADMINISTRATIONS OF ECOWAS MEMBER STATES AND THE COLLABORATION BETWEEN THEM AND THE ECOWAS COMMISSION IN CUSTOMS MATTERS.

THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

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

MINDFUL of Articles 35, 36 and 37 of the said Treaty relating to the liberalization of trade, customs duties and the establishment of a Common External Tariff (CET) within the Community with a view to establishing the Customs Union of the Community;

MINDFUL of Supplementary Act A / SA.2 / 12/17 adopting the ECOWAS Customs Code, particularly Articles 1, 3, 33, 34, 35, 63, 64, 65;

MINDFUL of the Supplementary Act A/SA.3/02/13 adopting the ECOWAS Strategy for the Fight against Terrorism and the Implementation Plan with a view to coordinating and pooling efforts to combat the financing of terrorism in the ECOWAS region;

HAVING REGARD to the Political Declaration on the Prevention and abuse of Drugs, Illicit drug trafficking and Organized Crime in West Africa of 19 December 2008;

HAVING REGARD to Protocol A/P3/12/01 on the fight against corruption of 21 December 2001;

HAVING REGARD to the Supplementary Act A/SA.1/01/10, concerning the protection of personal data in the ECOWAS region of 16 February 2010;

HAVING REGARD to Decision A / DEC.17 / 01/06 of 12 January 2006, adopting the ECOWAS Common External Tariff (CET) and the subsequent amending texts;

HAVING REGARD to Supplementary Act A/SA.1/07/13 relating to the establishment and implementation of one stop border posts at the borders of ECOWAS Member States of 18 July 2013;

REAFFIRMING their firm commitment to achieving Customs Union among the ECOWAS Member States for unhindered economic integration;

CONSCIOUS that the liberalization of intra-Community trade could lead to flows in illicit trafficking;

CONSIDERING that infringements of customs law are prejudicial to the security of Member States and to their economic, commercial, fiscal, social, cultural and public health interests;

CONSIDERING that illicit trafficking in narcotic drugs, psychotropic substances, counterfeit goods, dangerous goods, endangered species of wild flora and fauna and all kinds of goods constitutes a serious threat to public health, morality and safety and to the society;

CONSCIOUS of the threat posed by transnational organized crime and terrorist groups with significant resources and the need to combat them effectively;

DETERMINED to effectively combat money laundering, terrorism financing and tax fraud through cooperation and information exchange with Financial Intelligence Units (FIU) and Tax Administrations;

CONSIDERING that customs administrations are responsible, in the customs territory of the Community and in particular at their points of entry and exit, for preventing, investigating and prosecuting infringements not only of Community legislations but also of national laws;

CONSIDERING that special forms of cooperation involving cross-border actions for the prevention, investigation and punishment of certain infringements, both the national legislation of the Member States and the Community customs legislation should be promoted; and that such actions should always be conducted in accordance with the principles of legality, subsidiarity and proportionality;

CONVINCED of the need to strengthen cooperation between customs administrations by establishing procedures which will enable customs administrations to act jointly and exchange data related to illicit trafficking;

DESIRING to apply the highest international standards of cooperation in the prevention, investigation and punishment of customs offences, with a view to better control legitimate trade, and to this end, to establish a high-level instrument for regional cooperation between administrations of Member States;

BEARING IN MIND the international conventions which provide for prohibitions, restrictions and special measures of control over certain goods;

BEARING IN MIND the United Nations Convention against Transnational Organized Crime, adopted in New York on 15 November 2000, and the High-Level Signature Conference of that

Convention, held in Palermo from 12 to 15 December 2000, which defines the framework for mutual assistance at international level to prevent and combat transnational organized crime;

CONSIDERING the 1948 Universal Declaration of Human Rights of the United Nations;

BEARING IN MIND the International Convention on Administrative Mutual Assistance for the prevention, investigation and repression of Customs offences (Nairobi, 9th June 1977) and the International Convention on Administrative Mutual Assistance in Customs Matters known as the Johannesburg Convention adopted on 27 June 2003 under the auspices of the World Customs Organization (WCO);

CONSIDERING the resolution of the Customs Cooperation Council on the importance of intelligence in the fight against customs fraud;

TAKING into account the Trade Facilitation Agreement of the World Trade Organization;

TAKING into account the Convention on International Trade in Endangered Species of wild Flora and Fauna signed in Washington on 3rd March 1973 and the subsequent amending texts;

(RECALLING the resolution of the World Customs Organization (WCO) on the role of Customs in the area of security (Punta Cana, December 2015)

RECALLING the recommendations of the Financial Action Task Force (FATF) on the fight against money laundering and the financing of terrorism and the proliferation of weapons of mass destruction;

CONSIDERING the SAFE Framework of Standards of the World Customs Organization aimed at strengthening the facilitation and security of international trade in which Customs-Customs cooperation constitutes one of the pillars;

Recalling the Recommendation of the Customs Co-operation Council Concerning the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition, supplementing the United Nations Convention Against Transnational Organized Crime (29 June 2002);

Recalling the Recommendation of the Customs Co-operation Council on the need to Develop and Strengthen the Role of Customs Administrations in Tackling Money Laundering and in Recovering the Proceeds of Crime (25 June 2005);

FOLLOWING APPROVAL by the meeting of ECOWAS Finance Ministers held at Abuja the 2 November 2018;

HAVING REGARD TO resolution by which the Parliament of the Community gave assent;

ON THE RECOMMENDATION of the 81st Session of the Council of Ministers held on 15 of December 2018.

AGREED AS FOLLOWS:

CHAPTER I

TERMS AND EXPRESSIONS OF THE SUPPLEMNTARY ACT

ARTICLE 1: DEFINITIONS

In this Supplementary Act, unless the context otherwise requires, the following terms and expressions shall be understood as follows:

1. **"Competent Administration"** means any national customs administration or other national authority designated to assist the customs administration.
2. **"Customs administrations"** means the Services responsible for the application of the customs regulations which are also responsible for the application of other laws and regulations relating to the import, export, transport or storage of goods;
3. **"Requesting Administration"** means the customs administration requesting assistance;
4. **"Requested administration"** means the customs administration from which assistance is requested;
5. **"Mutual administrative assistance** » means measures taken by a Customs administration on behalf of or in collaboration with another Customs administration for the proper application of Customs law and for the prevention, investigation and repression of Customs offences
6. **"Customs authorities"** means the customs administrations of the Member States or the Community responsible for the application of customs law and any other authority empowered under national law to apply certain customs provisions;
7. **"International Supply Chain"** means the process of cross-border movement of goods from the place of origin to the final destination;
8. **"Dual-use goods":** means products, including software and technology (including the transmission of software or technology, electronically, by fax or by telephone to or from a destination outside the Community) which to have both civilian and military use;
9. **"Financial Intelligence Unit":** means national Financial Information Processing Unit or National Agency in charge of the fight against money laundering and terrorist financing in the ECOWAS Member States
10. **"Management Committee"** means the committee responsible for the management of this Supplementary Act and whose attributions and functions are defined in Article 45;
11. **"Commission"** means the Commission of the Economic Community of West African States (ECOWAS) established by Article 17 of the Revised ECOWAS Treaty as amended by Additional Protocol A / SP1 / 06 / 06 of June 14, 2006;
12. **"Community"** means the Economic Community of West African States (ECOWAS) whose creation has been reaffirmed by Article 2 of the ECOWAS Treaty;
13. **"Council"** means the Council of Ministers established by Article 10 of the Treaty of the Economic Community of West African States (ECOWAS);

14. **"Smuggling"** means Customs offence consisting in the movement of goods across a Customs frontier in any clandestine manner, thereby evading Customs control;
15. **"Cross-border cooperation"** means cooperation between customs administrations of Member States beyond their respective borders;
16. **"Customs debt"** means the obligation on a natural or legal person to pay the amount of import and export duties, taxes and other charges which apply to specific goods in accordance with the legislation in force ;
17. **"Personal data"** means any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more specific elements specific to his physical, physiological, psychological, economic, cultural or social identity;
18. **"Import and Export Duties and Taxes"** means customs duties and all other duties, taxes and fees or other charges imposed on the importation or exportation of goods, with the exception of fees and charges the amount of which is limited to the approximate cost of services rendered, or which are collected by the Customs on behalf of a national authority;
19. **"Administrative inquiry"** means all the checks, inspections and actions undertaken by officials of customs administrations in the performance of their duties with a view to ensuring the correct application of the customs rules and, where appropriate, establishing irregularity in operations which appear to be contrary to this, with the exception of actions undertaken at the request or under the direct control of a judicial authority;
20. **"Member State or Member States"** means a Member State or Member States party to the Treaty of the Economic Community of West African States (ECOWAS);
21. **"Official"** means any customs official or official of other public service designated by the customs administration;
22. **"Commission official"** shall mean any employee of the Commission of the Economic Community of West African States (ECOWAS) or any other person designated by the Commission for the purposes of this Supplementary Act;

23. **Commercial Fraud"** Any offence against statutory or regulatory provisions which Customs is responsible for enforcing, committed in order to :

    - evade, or attempt to evade, payment of duties/levies/taxes on movements of commercial goods;

    and/or

    - evade, or attempt to evade, any prohibition or restrictions applicable to commercial goods;

    and/or

- receive, or attempt to receive, any repayments, subsidies or other disbursements to which there is no proper entitlement;

and/or

- obtain, or attempt to obtain, illicit commercial advantage injurious to the principle and practice of legitimate business competition;

24. **"Customs Fraud"** means any act by which a person deceives, or attempts to deceive, the Customs and thus evades, or attempts to evade, wholly or partly, the payment of duties and taxes or the application of prohibitions or restrictions laid down by Customs law or obtains, or attempts to obtain, any advantage contrary to Customs law, thereby committing a Customs offence;
25. **"Related offense"** means any infringement of the laws and regulations, the prevention and repression of which, the customs administration consider it necessary;
26. **"Undercover"** means the customs officers empowered and under the conditions provided for by this Supplementary Act and national legislation, to supervise persons suspected of committing serious offenses, but however posing with these persons, as one of their co-perpetrators, accomplices, or interested in the fraud;
27. **"Information"** means any data processed or not, analyzed or not, and any document, report, and other communication in any form, including electronic and certified copies thereof;
28. **"Customs offense"** means any violation or attempted violation of customs law;
29. **"Risk management"** means the systematic detection of risks and the implementation of all the measures necessary to limit exposure to risks. This term covers activities such as data and intelligence gathering, risk analysis and assessment, prescription and measures as well as regular monitoring and evaluation of the process and its results on the basis of international, community and national sources and strategies;
30. **"Community working languages"** means the languages referred to in Article 87 (2) of the Revised Treaty, namely, English, French and Portuguese;
31. "Customs law" shall mean any legal and administrative provisions applicable or enforceable by the Customs administration of a Contracting Party in connection with the importation, exportation, transhipment, transit, storage and movement of goods, including legal and administrative provisions relating to measures of prohibition, restriction and control, and to combating money laundering;
32. **"Controlled Delivery"** means the method of permitting the passage through the territory of one or more States of illicit or suspected shipments, to the knowledge and control of the competent authorities of those States, to investigate an offense and identify those involved in its commission;
33. **"Person"** means either a natural person or a legal person or, where the possibility is provided for by the regulation in force, an association of persons recognized as having the capacity to perform legal acts without having the legal status of a legal person;

34. **"Community customs rules"** means all Community provisions and national provisions adopted pursuant to Community rules governing the import, export, transit and residence of goods traded between Member States and third party countries, and between Member States as regards goods of non-Community origin;
35. **"National customs rules"** means the laws, regulations or administrative provisions of a Member State, the application of which falls wholly or partly within the competence of the customs administration of that State;
36. **"Intelligence"** means any information processed and / or analyzed to provide details of a customs offense;
37. **"Risk"** means the likelihood of occurrence, in connection with the entry, exit, transit, transfer or particular destination of goods moving between the customs territory of the Community and countries outside those territories or with the presence of non-Community goods, of an event which would result in:

a. Hindering the correct application of Community or national measures,

b. Prejudice to the financial interests of the Community and its Member States,

c. Posing a threat to the safety and security of the Community, to public health, environment or to consumers;

38. **"Customs territory of the Community"** means all the customs territories of the Member States, as defined by Article 3 of the Community Customs Code;
39. **"Treaty"** means the Revised Treaty of the Economic Community of West African States (ECOWAS) and its subsequent amendments.
40. **"Physical Cross-border movement of cash and bearer negotiable instruments":** means any physical entry or exit of cash or negotiable instruments from one country to another. The term covers the following modes of transport: (i) physical transport by a natural person, in the accompanying luggage of that person or in his vehicle; (ii) shipment of cash or negotiable instruments by cargo in containers; and (iii) mailing by a natural or legal person of cash or negotiable instruments
41. **"Traveler"** means

a. Any person who temporarily enters the customs territory of the Community where he/she does not have his normal place of residence ("non-resident"), or who leaves that territory, and

b. Any person who leaves the customs territory of the Community where he has his/her normal residence ("resident leaving the customs territory of the Community") or who returns to the customs territory of the Community ("resident returning to the customs territory of the Community ").

CHAPTER II

SCOPE AND GENERAL PROVISIONS

ARTICLE 2: EXERCISE OF ADMINISTRATIVE ASSISTANCE

1. Member States shall assist and cooperate through their customs administrations under the conditions laid down in this Supplementary Act, with a view to the appropriate application of the Community customs rules to prevent, investigate and combat customs offenses, and related offenses, including money laundering, the financing of terrorism and the proliferation of small arms and weapons, use ofweapons of mass destruction and to ensure the security of the international supply chain.
2. For the purpose of achieving this objective, the customs administrations of the Member States are encouraged to cooperate with the Financial Intelligence Units (FIUs) to strengthen and facilitate, where appropriate, the exchange of information, including information on physical cross-border transport of cash and other means of payment, in accordance with the required provisions in force. Customs administrations are also encouraged to cooperate with Tax administrations in order to contribute to the fight against tax evasion.
3. Any activity performed by a Member State under this Supplementary Act shall be in accordance with the laws and administrative provisions which it applies and within the limits of the competence and means available to its customs administration.
4. Each Member State shall notify the Commission of the powers authorized by national laws and designated by a Member State for the purpose of applying the provisions of this Supplementary Act.
5. The Commission shall communicate this information, as well as any updates to the other Member States.
6. This Supplementary Act covers only mutual administrative assistance between Member States provided for in article 2, paragraph 1 above, and does not preclude the application of mutual administrative assistance in other areas. .
7. If mutual assistance is to be provided by other authorities to the requesting Member State, the requesting administration shall specify the names of those authorities.
8. The provisions of this Supplementary Act do not give any person the right to obstruct the execution of a request for assistance.

ARTICLE 3: CENTRAL COORDINATION SERVICE

1. Member States shall designate within their customs administrations a central unit responsible for receiving requests for mutual assistance under this Supplementary Act and for coordinating mutual assistance. Without prejudice to paragraph 2 below, this service shall also be responsible for cooperation with other authorities involved in an assistance measure under this Supplementary Act.
2. Even if States have discretion in the granting of assistance or use of information obtained under the Supplementary Act, it is preferable that responsibility for the matter

be the sole preserve of the customs administration Head Office, in this case the service in charge of intelligence and fight against fraud.

3. The central coordinating services designated by the Member States shall maintain the necessary direct contact with each other. However, where the exchange of information concerns particular categories of activities and cases of urgency, direct and prompt contact between the other services of the customs authorities of the Member States may be the only means of rendering assistance effectively.
4. If the processing of an application is not, or only partly, within the competence of the customs authority, the Central Coordination Service shall forward the request to the competent national authority and inform the requesting authority accordingly.
5. If the request cannot be accepted for legal or factual reasons, the coordination service shall refer the request to the requesting authority together with the statement of reasons for the impediment.

ARTICLE 4: CUSTOMS ATTACHES

1. Member States may agree to exchange customs attachés for a fixed or indefinite period and under mutually agreed conditions.
2. In order to promote cooperation between the customs administrations of the Member States and subject to paragraph 3 below , the customs attachés may,:

   (a) Facilitate and accelerate the exchange of information between their home State and the host country;

   (b) Assist with investigations concerning their State of origin or the Member State they represent;

   c) Participate in the processing of requests for assistance;

   d) Advise and assist the host country in the preparation and execution of cross-border operations;

   e) Carry out any other task that the Member States may agree among themselves.

   f) facilitate and accelerate the movement of goods between the host country and their State of origin or the member state duly represented in accordance with paragraph 3 below.

3. Member States may agree, bilaterally or multilaterally, on the mandate and location of the customs attaches. Customs attachés may also represent the interests of one or more other Member States.

CHAPTER III

GENERAL CONDITIONS FOR ASSISTANCE

ARTICLE 5: COMMUNICATION OF REQUESTS

1. The requests for assistance referred to in this Supplementary Act shall be communicated directly between the customs administrations concerned.

Each customs administration shall designate an official correspondent within the Central Coordination Service for this purpose and communicate the contacts to the Commission.

(b) The Commission shall provide this information and any updates thereof to the other customs administrations.

2. Requests for assistance under this Supplementary Act shall be made in writing or electronically, and shall be accompanied by any information deemed useful for the purpose of complying with such requests. The requested administration may require written confirmation of electronic requests.

Where the circumstances so require, requests may be made verbally. Such requests shall be confirmed as soon as possible either in writing or, if acceptable to the requested and requesting administrations, by electronic means.

3. Requests made in writing shall be submitted in one of the working languages of the Community.

4. Requests made in accordance with paragraph 2 of this article shall include the following information:

(a) The name and contact details of the requesting administration;

(b) The matter at issue, the type of assistance requested and the reasons for the request;

(c) A summary of the matter in question and its administrative and legal aspects;

(d) The names and addresses of the persons to whom the application relates, if known;

(e) Verifications made in accordance with Article 9 (2).

(f) Any other information deemed relevant

5. Where the requesting administration requests that a particular procedure or method be followed, the requested administration shall grant that request, subject to its national laws and administrative provisions in force.

ARTICLE 6: SPONTENEOUS ASSISTANCE

1. In cases which could involve serious damage to the economy, public health, public safety, including the security of the international supply chain, or any other vital interest of a Member State or the Community, the customs administration of any Member State shall provide the customs authority of that Member State or the customs authorities of the other Member States with assistance on its own initiative.
2. Where they consider it useful for compliance with Community or national customs rules, the customs authorities of each Member State shall:

(a) Exercise or cause to be exercised, as far as possible, the special surveillance defined in Article 13 below;

(b) Communicate to the customs authorities of the other Member States concerned, in particular in the form of reports and other documents, or certified true copies or extracts thereof, all information available to them concerning transactions which are or appear to them to be contrary to the aforementioned regulations.

3. The customs authorities of each Member State shall forthwith communicate to the customs authorities of the other Member States concerned all relevant information relating to operations which are contrary to or which appear to them to be contrary to Community customs legislation, and in particular relating to the goods and the new means or methods used to carry out those operations.

4. The customs authorities of each Member State shall forthwith communicate to their national Financial Intelligence Unit (FIU) all relevant information relating to operations which are contrary to or which appear to them to be contrary to the rules on foreign financial relations and in particular those relating to seizures of cross-border physical transport of cash and other negotiable instruments in the event of non-declaration, misrepresentation or incomplete declaration or in case of suspicion of money laundering or terrorism financing.

5. The customs authorities and the Financial Intelligence Units (FIU) may spontaneously exchange information concerning facts which may reveal a threat to the Community's fundamental interests in the area of public security and safety as well as information on facts likely to be the subject of fraud or attempted customs fraud.

6. The customs authorities of each Member State shall forthwith communicate to the customs authorities of the other Member States concerned or likely to be concerned all relevant information at their disposal relating to operations which are known or suspected to constitute, or which seem likely to give rise to smuggling of works of art, antiques or other cultural property, and endangered species of wild flora and fauna.

CHAPTER IV

INFORMATION

ARTICLE 7: INFORMATION FOR THE PURPOSES OF APPLICATION OF CUSTOMS LAW.

1. Customs administrations shall provide each other, on request or on their own initiative, with information which may help to ensure compliance with Community customs rules as appropriate, and to prevent, investigate and combat customs offenses and to ensure the security of the international supply chain. This information may relate to:

(a) Emerging risks in the international supply chain ;
(b) new anti-fraud techniques that have been proven effective;
(c) new trends, means and methods used to commit customs offenses;
(d) goods known to be subject of customs offenses, and the methods used to transport or store such goods;
(e) persons who have committed or are suspected of committing customs offenses;
(f) any other data that may assist customs administrations in assessing risks for control and facilitation purposes.
(g) new means or methods used for the smuggling of narcotic drugs and psychotropic substances, works of art and antiques, cultural property and endangered species of wild flora and fauna.

2. At the request of the requestingauthority, the requested authority shall communicate to the applicant authority, in particular in the form of reports and other documents, or certified true copies or extracts thereof, any information available to it or obtain on the basis of recorded or planned transactions which are or appear to be contrary to Community customs rules or, where applicable, the results of the surveillance undertaken pursuant to Article 13 below.
3. In order to obtain the information requested, the requesting authority, or the administrative authority concerned, shall proceed as if acting on its own behalf or at the request of another authority of its own State.

ARTICLE 8: INFORMATION RELATING TO CUSTOMS AND OTHER RELATED OFFENSES

The customs administration of a Member State shall provide to the customs administration of the other Member States, on its own initiative or on request, information on planned, ongoing or completed activities which constitute a reasonable presumption that a customs offense has been or is being committed in the territory of a Member State, or in the Community customs territory.

ARTICLE 9: INFORMATION FOR THE ASSESSMENT OF IMPORT AND EXPORT DUTIES AND TAXES

1. On request, the requested administration shall communicate for the purposes of the appropriate application of the Community customs rules or the prevention of customs fraud, information likely to assist the requesting administration which has reason to doubt the veracity or the accuracy of a declaration.
2. The application must specify the verification procedures that the requesting administration has applied or attempted to apply, as well as the specific information requested:
   a. With respect to the customs value of the goods, commercial invoices presented to the customs of the country of export or import or copies of such invoices authenticated by customs, as the circumstances require, the documentation

b. providing the prices for export or import, a copy or a copy of the declaration of value made at the time of export or import of the goods, commercial catalogs, current prices and any other information published in the country of export or country of import;

c. With regard to the tariff description of the goods, the analysis carried out by the laboratories for the determination of the declared tariff description, either on importation or on exportation;

d. As regards the origin of the goods, the declaration of origin established, where appropriate in accordance with the rules of origin of Community products. When this declaration is required, the customs procedure under which the goods were in the country of export (release for home consumption, transit, warehouse, temporary admission, free zone and drawback).

ARTICLE 10: PARTICULAR TYPES OF INFORMATION

Upon request, the requested administration shall provide the requesting administration, which has reason to doubt the accuracy of the information presented in customs matters, with information concerning:

(a) the regularity of the export from the territory of a Member State of goods imported into the customs territory of the requesting Member State;

(b) the regularity of the importation into the requested Member State of the goods exported from the customs territory of the requesting Member State, and the customs procedure under which the goods may have been placed.

(c) the regularity of the transit, in the requested State, of goods exported / imported to or from the requesting State;

(d) the regularity of declarations of cross-border physical transport of cash and other negotiable bearer instruments;

(e) Authenticity of official documents submitted in support of a customs declaration of goods

ARTICLE 11: AUTOMATIC EXCHANGE OF INFORMATION

The Customs Administrations of Member States may, in accordance with the provisions of this Supplementary Act, exchange information covered by this Supplementary Act automatically.

ARTICLE 12: ADVANCE EXCHANGE OF INFORMATION

1. The customs administrations of the Member States may exchange specific information preferably by electronic means, prior to the arrival of consignments within the Community customs territory to allow for adequate risk assessment and ensure, in particular, the security of the international supply chain.

2. Customs administrations of member states may exchange information in advance regarding travelers who are cash couriers in order to prevent illicit cross-border transportation of cash and bearer negotiable instruments.

3. Customs administrations of member states may exchange information in advance on any person entering the community customs territory where that person is suspected of terrorism, terrorist financing, trafficking in narcotic and psychotropic substances and other illicit substances.4. To the extent possible, this information shall include the following:

i. shipper or code of the shipper or exporter or code of the exporter;
ii. Traveler's identity (passport, National Identity Card, travel document)
iii. description of the goods or tariff code number;
iv. code number indicating a dangerous substance;
v. marks of package;
vi. number of packages;
vii. unit of measurement used;
viii. gross total weight;
ix. total invoice bill;
x. financial regulation
xi. currency code;
xii. place of loading or code;
xiii. carrier identification or carrier name;
xiv. equipment identification number;
xv. size of equipment and type identification;
xvi. seal number;
xvii. identification of the means of transport crossing the border of the Customs territory of the Community ;
xviii. nationality of the means of transport used in crossing the border of the Customs territory of the Community;
xix. reference number of the mode of transport;
xx. method of payment of freight charges or code;
xxi. customs office of exit or code;
xxii. country located on the route or code;
xxiii. first place of arrival or code;
xxiv. date and time of arrival at the first place of arrival on the territory of the Member State or the Customs territory of the Community or code;
xxv. consignee or code or importer or code;
xxvi. party to be notified or code;
xxvii. place of destination of the load;
xxviii. agent or code;
xxix. unique consignment reference number.

5. The Management Committee referred to in Article 50 below shall be entitled to amend the list referred to in paragraph 3 of this Article.

CHAPTER V

SPECIAL CASES OF ASSISTANCE

ARTICLE 13: SURVEILLANCE

1. Upon request, the requested administration shall, as far as possible, maintain surveillance over and provide information to the requesting customs administration on:

a. goods transported or in storage where requesting Administration of the Member State knows or suspects of being used to commit a customs offense in the territory of its State or the Customs territory of the Community;
b. the means of transport that the Customs Administration of the requesting Member State knows or suspects of being used to commit a customs offense in the territory of its State or the customs territory of the Community;
c. premises that the Customs Administration of the requesting Member State knows or of being used in connection with the commission of a customs offense in the territory of its State or the customs territory of the Community;
d. persons who have committed or are suspected of committing a customs offense in the territory of the requesting Member State or the customs territory of the Community, including those entering or leaving the territory of the requested Member State.

2. The customs administration of a Member State may continue to exercise such surveillanceon its own initiative if it has reason to believe that planned, ongoing or completed activities appear to constitute a customs offense in the Community customs territory.

3. On request, the requested administration shall, to the extent of its competence and ability, maintain special surveillance for a specified period over the movements, particularly the entry into and exit from its territory, of particular persons which the requesting administration reasonably believes to be professionally or habitually engaged in the smuggling of works of art, antiques or other cultural property and endangered species of wild flora and fauna in its territory or in the Community Customs territory.


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ARTICLE 14: ADMINISTRATIVE INQUIRIES

1. At the request of the requesting authority, the requested authority shall make or cause to be carried out appropriate administrative inquiries concerning operations which are or appear to the requesting authority to be contrary to the Community customs rules.
2. In carrying out these administrative inquiries, the requested authority, or the administrative authority concerned by the latter, shall proceed as if acting on its own behalf or at the request of another authority of its own State.
3. The requested authority shall communicate the results of these administrative inquiries to the requesting authority as soon as practicable.

ARTICLE 15: CONTROLLED DELIVERY

1. Member States may authorize the movement of illicit or suspicious goods upon their exit, transit or entry, with the knowledge and control of the customs administration, for the purpose of combating a customs offense and identify those involved in its commission;
2. If such movements cannot be established under the control of the customs authority, the latter shall endeavor to co-operate with the national authorities empowered for that purpose or entrust the case to the said authorities.

ARTICLE 16: NOTIFICATION

1. Upon request, the requested administration shall, to the extent permissible under its national law, take all necessary measures to notify a resident or established person of its territory of any decision concerning that person taken by the requesting administration pursuant to Community customs legislation and falling within the scope of this Supplementary Act.
2. This notification shall be made in accordance with the formalities applicable in the territory of the requested Member State in respect of similar decisions taken at the national level.

ARTICLE 17: RECOVERY OF CUSTOMS DEBTS

1. Customs Administrations may, upon request, assist each other in the recovery of customs debts.
2. The detailed arrangements for assistance in the recovery of customs debts shall be adopted by the Member States concerned or, as the case may be, by Community rules.

ARTICLE 18: EXPERTS AND WITNESSES

1. Upon request, the requested administration may authorize its officials to testify before a court or tribunal in the territory of the requesting Member State as experts or witnesses in connection with a case relating to the application of customs law.

2. Customs administrations may use third parties for the purposes of applying Articles 13, 14, 15 and 17 of this Supplementary Act, without prejudice to the application of Community and national laws and regulations in force.

ARTICLE 19: PRESENCE OF OFFICIALS IN THE TERRITORY OF ANOTHER MEMBER STATE

On request, and for the purpose of investigating a customs offense, officials specially designated by the requesting administration may, with the authorization of the requested administration, and subject to the conditions laid down where appropriate by the latter:

(a) examine, in the offices of the requested administration, documents and any other information in respect of that Customs offence, and be supplied with copies thereof;
(b) be present during an inquiry conducted by the requested administration in the territory of the requested member states, which is relevant to the requesting administration; these officials shall only have an advisory role.

ARTICLE 20: PRESENCE OF OFFICIALS OF THE REQUESTING ADMINISTRATION AT THE INVITATION OF THE REQUESTED ADMINISTRATION.

1. Where the requested administration considers it appropriate for an official of the requesting administration to be present when measures of assistance are carried out pursuant to a request, the requested administration may invite the participation of that official, subject to any terms and conditions it may specify.

2. The Customs administrations concerned may, by mutual arrangement, expand the role of the visiting official beyond an advisory one.

ARTICLE 21: PROVISIONS RELATING TO OFFICIALS ON MISSION ABROAD

1. Without prejudice to Articles 22, 23, 24, 25, 26, 27 and 28, where officials of a Member State are present in the territory of another Member State in accordance with this Supplementary Act, they shall at all times be able to provide proof of their identity and official status in their administration, as well as the official status granted to them in the territory of the requested customs administration.
2. While in the territory of another Member State in accordance with the provisions of this Supplementary Act, officials on mission abroad shall be responsible for any offense they may commit and receive, to the extent permitted by of the Member State in which they are located, of the same protection as that accorded to the customs officials of that Member State.

CHAPTER VI

COOPERATION IN THE DEVELOPMENT AND ANALYSIS OF EXTERNAL TRADE STATISTICS AND IN THE PREPARATION AND IMPLEMENTATION OF CUSTOMS TRAINING ACTIVITIES

ARTICLE 22: COOPERATION FOR THE DEVELOPMENT AND ANALYSIS OF EXTERNAL TRADE STATISTICS ACROSS COMMON FRONTIERS

1. The competent authorities of the Member States shall provide mutual assistance for the compilation of statistics on the exchange of goods imported, exported, transited or re-exported through common frontiers. For this purpose, each customs office of export shall communicate to the customs office of importation of the neighbouring country a monthly statement, by tariff heading, of the quantities exported to the latter country.
2. At the request of the competent administration of a Member State, the competent authority of the requested Member State shall carry out investigations in order to check the accuracy of the results of the statistics prepared by the requesting administration for the exchange of goods imported, exported or re-exported through common borders.

ARTICLE 23: COOPERATION IN THE PREPARATION AND IMPLEMENTATION OF CUSTOMS TRAINING ACTIVITIES

The competent authorities of the Member States shall assist one another in the preparation and implementation of customs training activities. This provision applies to:

a. The design and implementation of common training institutions or activities;
b. The invitation sent by the competent administration of a Member State to the competent authorities of the other Member States to designate officials who participate in training courses or other vocational training activities with a view to improving their knowledge about formalities, procedures and other matters of mutual interest.

CHAPTER VII

CROSS-BORDER COOPERATION

ARTICLE 24: GENERAL PROVISIONS

1. The officials of a Member State may, on the basis of a mutual agreement concluded, undertake the activities referred to in this Chapter, in the territory of another Member State and in accordance with the additional conditions laid down, where appropriate, by the Member State in whose territory these activities take place. These activities come to an end as soon as the Member State in whose territory they take place so requests.

Administrations provide each other with the necessary assistance in terms of personnel and organization. Any request for cooperation must be made in principle in the form of a request for assistance within the meaning of Article 5.

The coordination and planning of cross-border operations is the responsibility of the central coordination services referred to in Article 3.

2. Cross-border co-operation within the meaning of paragraph 1 may be conducted for the purpose of preventing, investigating and repressing offenses in the following cases:

   a. Illicit traffic in drugs and psychotropic substances, weapons, ammunition, explosives, cultural property, hazardous and toxic wastes;
   b. Cross-border illegal trade in taxable goods, practiced in violation of tax obligations
   c. Any other trade in goods prohibited by Community or national customs regulations.
   d. Any financial transaction related to commercial operations or cross-border physical transport subject to anti-money laundering and terrorism financing legislation.
   e. smuggling of works of art, antiques or other cultural property and endangered species of wild flora and fauna

ARTICLE 25: HOT PURSUIT

1. Officials of a member state pursuing in their territory a person observed in the act of committing a Customs offence and is liable to be extradited or who has participated in such an offense may continue pursuit in the territory of another Member State, subject to prior request, authorization and compliance with any conditions laid down by the requested Member State, as the case may be.
2. Such pursuit may continue without prior authorization where, for reasons of extreme urgency, it has not been possible to inform the competent authorities of the Member State before entering its territory or when the said authorities have not been able to ensure the active prosecution of the offenders themselves.
3. Where the pursuit takes place without prior authorization, the competent authorities of the Member State in whose territory the pursuit is taking place shall be informed as soon as the border is crossed and a formal request for authorization indicating the reasons for the crossing of the border, without prior authorization, is presented without delay.
4. At the request of the officials participating in the pursuit, the competent authorities of the Member State in which the proceedings are taking place shall summon the person being pursued to establish his identity or to detain him.
5. When the persuit takes place at sea, and when it continues on the high seas, international law on the sea, which is subject to the United Nations Convention on the Law of the Sea, is applied.

ARTICLE 26: CROSS-BORDER SURVEILLANCE

1. Officials of a Member State who, in the territory of the Member State, keeping under surveillance of an individual in respect of whom there is a strong presumption of involvement in a customs offense may, subject to a prior request, authorization and compliance with any condition laid down by the requested Member State, continue their surveillance in the territory of the other Member State.
2. If, for particularly urgent reasons, prior authorization cannot be requested, surveillance pursuant to paragraph 1 of this Article may be continued provided that the competent authorities of the member state in whose territory the surveillance is to be continued, are immediately informed of the crossing of the border and a formal request for authorization, outlining the grounds for crossing the border without prior authorization, is submitted as soon as possible.
3. Customs administrations may conclude memoranda of understanding on joint surveillance arrangements from the perspective of integrated border management.

ARTICLE 27: UNDERCOVER INVESTIGATIONS

1. A Requested Member State may authorize the officials of a requesting Member State to investigate, in its territory, a false identity in cases where it would be extremely difficult to elucidate or clarify facts relating to a customs offense without using this survey technique. The officials concerned are authorized to gather information and to establish contacts with the individuals being investigated or with persons close to them in the course of their investigation activities.
2. Such investigations shall be conducted in accordance with the national legislation and procedures in force in the territory of the Member State in which they are taking place.

ARTICLE 28: JOINT CONTROL OR INVESTIGATING TEAMS

1. Member States may establish joint control or investigation teams to detect and prevent specific types of customs offenses requiring simultaneous and coordinated activities.
2. These teams operate in accordance with the laws and procedures of the Member State in whose territory such investigations are taking place.

CHAPTER VIII
RELATIONS WITH THE COMMISSION

ARTICLE 29: COMMUNICATION OF INFORMATION BY MEMBER STATES

1. The Customs authorities of each Member State shall notify the Commission as soon as they have available:
   a. Any information that appears useful to them regarding:

- goods which have been or are alleged to have been the subject of operations contrary to the Community customs rules;
- the methods and processes used or alleged to have been used to transgress (contravene) the Community customs rules;
- requests for assistance, actions taken and information exchanged which may reveal trends of customs fraud or smuggling of works of art, antiques or other cultural property and endangered species of wild flora and fauna.

b. Any information concerning shortcomings or deficiencies in the Community customs rules for which the application of that law, has made possible to identify or to assume.

2. The Commission shall communicate to the customs authorities of Member States, as soon as it has available, all information likely to enable them to ensure compliance with Community rules.

ARTICLE 30: COMMUNICATION OF INFORMATION BY THE COMMISSION

1. Where operations contrary to or appearing to be contrary to Community customs rules are established by the customs authorities of a Member State and of particular interest at Community and regional level, in particular:

   • where they have or could have ramifications in other Member States, where

   • when similar operations appear to those authorities which may have also been carried out in other Member States;

   those authorities shall, as soon as possible, on their own initiative or at the reasoned request of the latter, communicate to the Commission all appropriate information, if necessary in the form of documents or copies or extracts of documents, necessary for the knowledge of the facts in question in respect of the coordination by the Commission of the actions of the Member States.

   The Commission shall communicate this information to the customs authorities of the other Member States.

2. Where the Commission considers that irregularities have been committed in one or more Member States, it shall inform the Member State (s) concerned and the latter or those Member States shall, as soon as possible, carry out an administrative investigation of which the Commission officials may be present in accordance with Articles 20 and 28.

3. As soon as possible, the Member State (s) concerned shall communicate to the Commission the conclusions reached following the investigation

CHAPTER IX

USE, CONFIDENTIALITY AND PROTECTION OF INFORMATION

ARTICLE 31: USE OF INFORMATION

1. Without prejudice to the provisions of Article 44, the information communicated in accordance with this Supplementary Act shall be used only by the customs administration for which it is intended and for the sole purpose of administrative assistance under the conditions laid down in this Supplementary Act.
2. Upon request, the Member State which provided the information may, notwithstanding paragraph 1 of this article, authorize its use for other purposes or by other authorities, subject to the terms and conditions established by the Member State.
3. This use is in accordance with the legislative and administrative provisions of the Member State wishing to use the information.
4. The use of information for other purposes includes investigations, judicial procedures and pursuits.

ARTICLE 32: CONFIDENTIALITY AND PROTECTION OF INFORMATION

1. Information communicated in accordance with this Supplemntary Act shall be treated as confidential and shall enjoy protection and a degree of confidentiality at least equivalent to that provided for information of the same nature in the laws and administrative provisions of the State Member that receives them.
2. Member States shall inform the Commission in writing of the national laws and administrative provisions in force concerning the confidentiality of information and the protection of personal data.
3. They undertake to respect at least the provisions of this Supplementary Act relating to the confidentiality of information and the protection of information.
4. The competent authorities should ensure an appropriate level of confidentiality for any request for cooperation and information exchanged, so as to protect the integrity of investigations or search for information, while respecting the obligations of both parties with regard to compliance, privacy and data protection. The competent authorities should, at a minimum, protect the information exchanged in the same way as they protect similar information received from national sources.

ARTICLE 33: PROTECTION OF PERSONAL DATA

1. Personal data shall be communicated exclusively to a customs administration or to the Commission under the conditions set out in Supplementary Act A/SA.1/01/10 of 16 February, 2010 on the protection of personal data in the ECOWAS region. The communication of personal data to other authorities is permitted only with the prior consent of the customs administration which provided them.

2. Upon request, the customs administration receiving the personal data shall inform the customs administration which supplied them of the use made of them and the results obtained.
3. The personal data provided under this Supplementary Act shall be retained only for the time necessary to fulfill the purposes for which they were provided.
4. The customs administration providing personal data shall, to the extent possible, ensure that the data have been collected in a fair and lawful manner that it is accurate and up-to-date and is not excessive in relation to the purposes for which they were provided.
5. If personal data supplied is found to be incorrect or should not have been exchanged, this shall be notified immediately. The Customs administration that has received such data shall amend or delete it.
6. The customs administrations or the Commission shall record the communication or receipt of personal data exchanged under this Supplementary Act.
7. The customs administrations or the Commission shall take the necessary security measures to ensure that personal data exchanged under this Supplementary Act are not consulted, modified or disseminated without authorization.

8. Each Member State shall be liable, in accordance with the said Supplementary Act and its legislative and administrative provisions, for the injury caused to a person as a result of the use of personal data exchanged under this Supplementary Act. The same shall apply where the loss is due to the Member State which has supplied information that is inaccurate or contrary to the provisions of this Supplementary Act.

ARTICLE 34: OBJECT OF CENTRALIZATION

1. With a view to centralizing the information provided for in Articles 35, 36 and 37 provided by the customs administrations, a secure central automated information system shall be set up.
2. This system shall be managed at the Commission's headquarters or at any place designated by it.
3. This information is placed in the system for the purposes of risk assessment, to properly enforce customs regulations; prevent and investigate customs offenses and ensure the security of the international supply chain.
4. Personal data is placed in the system to provide information on persons who have committed or suspected of committing a crime.

ARTICLE 35: NON-PERSONAL INFORMATION

1. For the purposes of Article 34, customs administrations shall provide the Central Automated Information System with the following non-personal information:
   i. information about the case reference, if any;
   ii. nature of the goods;

iii. quantities and unit of measure;
iv. means of transport;
v. concealment method;
vi. whether the goods were discovered on import, export, in transit or in the territory;
vii. itinerary;
viii. means of detection.

2. The Management Committee may amend the list referred to in paragraph 1 of this Article.

ARTICLE 36: INFORMATION CONCERNING PHYSICAL AND LEGAL PERSONS

1. For the purposes of Article 34, the customs administrations may communicate to the Central Automated Information System the following:

(A) With regard to natural persons:

i. last name, first name, maiden name, and pseudonym, and previous identities, if any;
ii. date and place of birth;
iii. nationality;
iv. nature and number of identity documents;
v. sex;
vi. country of residence;
vii. nature of the offense;
viii. profession;
ix. particular signs;
x. prior history or suspicion of the person
xi. registration number of the means of transport;
xii. itinerary
xiii. Method of payment of transport tickets
xiv. indicator of the level of danger that the person represents;
xv. particular reason for the inclusion of the data;
xvi. belonging to a criminal organization;
xvii. known associates.

(B) In the case of legal persons:

i. company name, trade name;
ii. country of incorporation of the company;
iii. registration number;
iv. Tax Identification Number
v. Bank Account Number
vi. Date of Registration
vii. Trade and Credit Register;

viii. Registered office;
ix. Trading address;
x. nature of business;
xi. nature of the offense;
xii. prior history or information on suspected legal persons;;
xiii. soecific reason for including the data;
xiv. name of managersor employees and, if applicable, report in accordance with paragraphs (A) i to xv.

2. The Management Committee shall have the power to amend the lists referred to in paragraphs 1 (A) and (B) of this Article.

ARTICLE 37: OTHER INFORMATION

Customs administrations may communicate to the Central Automated Information System any other information relevant for the proper application of customs law, with a view to preventing, investigating and combating customs offenses, and in order to ensure the security of the international logistics chain.

ARTICLE 38: UPDATING AND USE OF INFORMATION

1. The Commission uses the information contained in the master file to prepare summaries and studies of new or established trends in customs offenses.
2. Upon request, the competent administrations shall furnish the Commission, and subject to the other provisions of this Supplementary Act, any additional information which may be necessary for the preparation of the summaries and studies referred to in paragraph 1 above.
3. The Commission shall communicate to the services designated by the competent authorities of the Member States the particular information contained in the master file, as well as the summaries and studies referred to in paragraph 1 above.
4. The Commission shall, upon request, furnish to Member States any other information available to it under this Supplementary Act.
5. The Commission shall liaise with other relevant international organizations, including the relevant United Nations bodies and the International Criminal Police Organization (ICPO-INTERPOL), in the fight against illicit trafficking in narcotic drugs and psychotropic substances.

ARTICLE 39: COMMUNICATION OF DATA

1. The provision of data to the central automated information system by a Member State is subject to the provisions of the Regulations of the Community, unless this Supplementary Act provides for more stringent provisions.

2. Each Member State shall designate a competent authority within the customs administration to be responsible at national level for the proper functioning and security of the central automated information system and for taking the necessary measures to ensure compliance with the provisions of Chapters IX and XI.
3. The Commission shall designate its officials to be responsible at the Commission level for the proper functioning, management of the central automated information system and for taking the necessary measures to ensure compliance with Chapters IX and XI.
4. Each Member State shall notify the Commission of the competent authority designated in accordance with paragraph 2 of this Article.
5. The Commission shall make this information available to other Member States, as well as any other relevant information relating to the officials of the Commission appointed in accordance with paragraph 3 of this Article.
   The information referred to in this paragraph shall be incorporated into the central automated information system and shall not, however, fall under the provisions of Chapter VI.

ARTICLE 40: MANAGEMENT OF THE CENTRAL AUTOMATED INFORMATION SYSTEM.

1. A team will be created to manage the central automated information system in relation to the technical, operational and procedural aspects.
2. It shall consist of representatives of the customs administrations of the Member States and officials of the Commission.
3. The composition of the management team is set by the Management Committee.
4. The management team shall establish the procedures governing the technical, operational and procedural aspects concerning:
   a. the disclosure of information in accordance with Articles 35, 36 and 38;
   b. access to the central automated information system and the information contained therein, in accordance with Article 46;
5. After approval by the Management Committee of the procedures referred to in paragraph 2 of this Article, the management team shall ensure their implementation.
6. The management team shall report at least once a year to the Management Committee, with regard to the management of the central automated information system pursuant to paragraphs 1, 2 and 3 of this Article, with recommendations as required.

CHAPTER X

SECURITY OF THE CENTRAL AUTOMATED INFORMATION SYSTEM

ARTICLE 41: RESPONSIBILITY FOR SECURITY

1. Member States and the Commission shall be responsible for implementing the measures necessary for the security of the central automated information system.

2. These security measures shall include the following objectives:
   a. prevent unauthorized access to the equipment used for processing information in the system;
   b. prevent unauthorized access to the system;
   c. prevent the unauthorized entry, reading, copying, modification or deletion of any information in the system;
   d. ensure that it is possible to verify and determine the designated competent authorities and relevant officials of the Commission referred to in Article 39 (1) and (2) who may have access to the central automated information system, and information in the said system;
   e. ensure that it is possible to control and establish what information has been introduced into the system, when and by whom, and to monitor queries;
   f. prevent unauthorized reading, copying, modification or deletion of information during data transmission and transport of data media.
3. The independent representative (s) designated pursuant to Article 50, paragraph 1 (f), shall perform access checks and personal data inquiries to ensure that access and queries were admissible and carried out by authorized users. A record of all verifications shall be maintained in the system for reporting to the Management Committee and deleted after twelve (12) months.

ARTICLE 42: IMPLEMENTATION OF SECURITY MEASURES

1. Each Member State shall designate a competent authority within its customs administration for the purpose of implementing at national level the security measures referred to in Article 46 (1);
2. The Commission shall designate its officials responsible at the level of the Commission for the security measures referred to in Article 46 (1).
3. Each Member State shall notify the Commission of the competent authority it has designated in accordance with paragraph 1 of this Article;
4. The Commission shall communicate this information to Member States, as well as any other information concerning Commission officials designated in accordance with paragraph 2 of this Article.
5. The information referred to in the preceding paragraph shall be recorded in the central automated information system; however, this information does not fall under the provisions of Chapter IX.

CHAPTER XI

PROTECTION OF INFORMATION IN THE CENTRAL AUTOMATED INFORMATION SYSTEM

ARTICLE 43: INTRODUCTION OF INFORMATION

The introduction of information into the central automated information system is governed by the Community rules and the legislative and administrative provisions of the Member State providing the information.

ARTICLE 44: USE OF INFORMATION

1. The use of information from the central automated information system shall be subject to Community rules and the laws and administrative provisions of the Member State using them.
2. Member States may use information from the central automated information system only for the purpose of achieving the objective referred to in Article 36.
   Upon request, the Member State which provided the information may, however, authorize its use for other purposes, subject to the terms and conditions it may have established.
   The use of information for other purposes includes judicial investigations, proceedings and prosecution.
3. Under the responsibility of the Commission, Commission officials may use information from the central automated information system only for the purpose of carrying out the tasks provided for in this Supplementary Act, subject to any conditions laid down by the Management Committee.
4. Personal data may only be used provided that they have been obtained from the central automated information system in accordance with Article 46 (7).

ARTICLE 45: RETENTION OF PERSONAL DATA

1. Personal data included in the central automated information system shall be kept only for the time necessary to achieve the purpose for which it was supplied. Each Member State shall specify the period of retention in the system of any personal data they supply.
2. The Member State which provided the personal data may extend the data retention period referred to in paragraph 1 of this Article where such retention is necessary to achieve the purpose for which it was introduced.

   If the period is not extended, the data is automatically deleted at the initiative of the Member State which provided the personal information.
3. The Commission shall inform the Member State which provided the personal data of the impending deletion referred to in paragraph 2 of this Article, one (1) month in advance.

4. Independent representative(s) appointed under paragraph 1 (f) of Article 50 shall carry out verifications to determine that the retention period for personal data in the central automated information system is respected.
5. A record of the verifications carried out is kept to be reported to the Management Committee and is deleted after twelve (12) months.

ARTICLE 46: ACCESS

1. Access to the central automated information system shall be granted to the competent authorities and officials of the Commission designated in Article 42.
2. For the purposes of Article 34 and without prejudice to paragraph 7 of this Article, the Member States and the Commission shall respectively designate their customs administration officials and Commission officials, who shall have access to information from the Central automated information System.
3. Access to the system shall be governed by the procedures referred to in Article 50.
4. For the purpose of the application of Article 50, the management team shall have access to the central automated information system.
5. The Management Committee may allow international or regional governmental organizations access to the non-personal information of the central automated information system, on the basis of reciprocity and subject to any conditions set by the Management Committee.
6. The representative(s) designated by the Management Committee under paragraph 1 (f) of Article 50 shall have access to the central automated information system.
7. Each Member State shall send to the Commission a list of officials designated by it in accordance with paragraph 2 of this article.
8. The Commission shall make this information available to all Member States, as well as any relevant information relating to the Commission officials designated in accordance with that paragraph.
9. This information is integrated into the central automated information system and does not fall under the provisions of Chapter VIII.
10. Member States may designate the persons entitled to have access, or those not entitled to access, to the personal data they have provided.
11. As regards access to personal data in the central automated information system, natural persons exercise their rights, in particular their right of access, in accordance with the laws and administrative provisions in force in the territory of the Member State in which these rights are invoked.

ARTICLE 47: MODIFICATION OF NON-PERSONAL INFORMATION IN THE CENTRAL AUTOMATED INFORMATION SYSTEM

1. Non-personal information in the central automated information system shall be amended, supplemented, corrected or deleted only at the initiative of the Member State which provided it.
2. Non-personal information shall be amended, supplemented, corrected or deleted in accordance with the procedures laid down and implemented by the management team in accordance with the provisions of Article 50.

ARTICLE 48: MODIFICATION OF PERSONAL DATA IN THE CENTRAL AUTOMATED INFORMATION SYSTEM

1. Only the Member State providing the data may undertake to modify, supplement, correct or delete the personal data it has entered into the central automated information system.
2. If a Member State finds that the personal data it has provided is inaccurate or that it has been entered or is stored in the automated central information system contrary to this Supplementary Act, it shall arrange for the amendment, supplementation, correction or deletion of this personal data without delay.
3. If a Member State has evidence suggesting that an inaccurate personal data has been introduced or is stored in the central automated information system contrary to this Supplementary Act, it shall inform the Commission as soon as possible. The Commission shall verify the data in question and, if necessary, proceed without delay with its modification, addition, correction or erasure. The Member State providing such data shall agree with the Commission to inform the Member States of any additions, modifications, corrections or deletions made.
4. If, when introducing personal data into the Central Automated Information System, a Member State finds out that its data contradicts data provided by another Member State, it shall immediately notify that Member State. The Member States concerned then endeavor to settle the case. If it results in a modification, addition, correction or erasing personal data, the Member State providing the data shall agree with the Commission to inform the Member States referred to in Article 46 (7) thereof.
5. When a court or other competent authority in the territory of a Member State makes the final decision to amend, supplement, correct or erase personal data in the central automated information system, the Member State in which the decision is taken shall take the necessary steps, when providing the data, to modify, complete, correct or delete the data without delay. Where data has been provided by another Member State, the Member State in which the decision is taken shall inform the person who provided the data. The latter then takes the necessary measures to modify, complete, correct or delete the data without delay.

ARTICLE 49: RESPONSIBILITIES AND LIABILITIES

1. Each Member State shall be responsible to the extent possible for the accuracy, timeliness and lawfulness of the information it enters into the central automated information system.
2. Each Member State shall be liable, in accordance with its own legislative and administrative provisions or Community rules on the subject, for the damage caused to a person as a result of the use by the Member State concerned of information from the central automated information system. The same shall apply where the injury is caused by the Member State which has supplied information that is inaccurate or contrary to the provisions of this Supplementary Act.
3. If the Member State found liable for the damage in accordance with paragraph 2 of this Article is not the Member State which has supplied the data, the Member States concerned shall agree on the terms and conditions of reimbursement to the liable
4. .Each Member State shall be liable, in accordance with its laws and administrative provisions or Community rules on the subject, for the injury caused to a person as a result of the use by Commission officials of information from the central automated information system contrary to the provisions of this Additional Act and provided that this information has been communicated to the system by the Member State concerned.
5. Where the damage is established by a competent judicial authority in the case of paragraph 4 of this Article, the Member State concerned may submit the decision in question to the Management Committee, which shall make a recommendation to the Commission regarding the reimbursement.

CHAPTER XII

MUTUAL ASSISTANCE MANAGEMENT

ARTICLE 50: THE MANAGEMENT COMMITTEE: ALLOCATION AND FUNCTION

1. A Management Committee is hereby established in accordance with Article 22(2) of the Revised Treaty with a view:
   a. to consider matters relating to the implementation of this Supplementary Act, as well as any proposed amendment thereto;
   b. to recommend to the Council of Ministers proposals for the amendment of this Supplementary Act;
   c. to recommend to the President of the Commission proposals for action to be taken by Member States to ensure the uniform interpretation and application of this Supplementary Act;
   d. to study, in particular, new methods and procedures designed to facilitate the prevention, investigation and repression of offenses relating to illicit trading operations, and to perform all other necessary tasks;

e. to decide the composition of the management team referred to in Article 40 (1);
f. to examine and approve the technical and operational procedures referred to in Article 40 (2) relating to the central automated information system;
g. to designate one or more independent representatives for the purposes of the verifications referred to in Articles 41 (2) and 45 (4) and determine the scope, frequency and other terms and conditions of such verifications;
h. to determine the conditions referred to in Article 41 (3) concerning the use by Commission officials of information from the central automated information system;
i. to determine any condition referred to in Article 46 (4) to allow access to the non-personal information of the central automated information system to international and regional governmental organizations;
j. to make recommendations to the Commission regarding any reimbursements referred to in Article 49 (5);
k. collaborate with other interested international organizations;
l. to consider all matters relating to this Supplementary Act that may be submitted to it;
m. to inform the Commission of its decisions.

2. The Management Committee shall decide on amendments to the lists in Articles 12, 35 and 36.
3. All Member States are members of the Management Committee.
4. The Management Committee shall establish its own rules of procedure. In the absence of Rules of Procedure at the time of entry into force of this Supplementary Act, the Rules of Procedure of the Committee shall apply until the adoption by the Administrative Committee of its own Rules of Procedure.
5. Decisions concerning matters relating to this Supplementary Act shall be taken by the Management Committee by consensus.
6. When a decision cannot be reached by consensus, the decision is then taken by a majority vote.
7. The Management Committee meets at least once a year. It elects annually its Chairman and Assistant Chairman. The Chairman is the representative of the Member State holding the Presidency of ECOWAS. The Customs administrations of Member States shall submit to the Committee requests for the inclusion of items on the agenda of the sessions of the Administrative Committee.
8. The Commission shall send the invitation and the draft agenda to the customs administrations of the Member States at least four (4) weeks before the session of the Management Committee.
9. The Commission shall provides secretarial services to the Management Committee.

CHAPTER XIII

DELEGATION OF POWERS

ARTICLE 51: DELEGATION OF POWERS

The Council of Ministers and the President of the Commission shall, if necessary, take all necessary measures to implement this Supplementary Act. The Management Committee shall propose these measures to the Commission and the latter, except for the cases of measures to be the subject of implementing regulations, recommends them to the Council.

CHAPTER XIV

FINAL PROVISIONS

ARTICLE 52: AMENDMENT AND REVISION

1. Any Member State, the Council of Ministers and the ECOWAS Commission may submit proposals for the amendment or revision of this Supplementary Act.
2. Proposals that do not emanate from the ECOWAS Commission are submitted to it. The Commission shall communicate all proposals to the Member States not later than thirty (30) days after their receipt. The Authority of Heads of State and Government will consider proposals for amendment or revision after a period of three (3) months has been granted to Member States.
3. Amendments or revisions shall be adopted by the Authority of Heads of State in accordance with the provisions of Article 9 of the Revised Treaty of ECOWAS. They shall enter into force upon signature and publication in the Official Journal of the Community.

ARTICLE 53: ENTRY INTO FORCE AND PUBLICATION

1. This Supplementary Act A/SA.6/12/18 shall enter into force upon signature by the President of the Authority of Heads of State and Government. As a result, ECOWAS member states and institutions commit themselves to begin the implementation of its provisions as soon as they enter into force.
2. This Supplementary Act A/SA.6/12/18 will be published by the ECOWAS Commission in the Official Gazette of the Community within thirty (30) days of the date of its signature by the President of the Authority. It will also be published by each Member State in its official Journal thirty (30) days after the Commission has notified it.
3. This Supplementary Act cancels and replaces Convention A / P5 / 5/82 on Mutual Administrative Assistance in Customs Matters signed on 29 May 1982 in COTONOU.

IN WITNESS WHEREOF, WE, HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) HAVE SIGNED THIS ADDITIONAL ACT

DONE IN ABUJA ON 22 DECEMBER 2018

IN ONE ORIGINAL COPY, IN FRENCH, ENGLISH AND PORTUGUESE, THERE THREE (3) TEXTS ALSO BEING FAITHFUL

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COMUNIDADE ECONOMICA DOS
ESTADOS DA AFRICA OCIDENTAL

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

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COMUNIDADE ECONOMICA DOS
ESTADOS DA AFRICA OCIDENTAL

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

54TH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22ND DECEMBER, 2018

SUPPLEMENTARY ACT A/SA.6.12/18 ADOPTING COMMUNITY RULES FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME, CAPITAL AND INHERITANCE AND THE PREVENTION OF TAX EVASION AND AVOIDANCE WITHIN THE ECOWAS MEMBER STATES

THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

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

MINDFUL of Article 3 of the Revised ECOWAS Treaty stating the areas in which the Community should focus its activities in order to achieve its aims and objectives;

MINDFUL of Articles 35, 37 and 40 of the Revised ECOWAS Treaty relating to Trade Liberalization, Common External Tariff, import duties and domestic taxes;

MINDFUL of the provisions of the new Article 9 of the Revised ECOWAS Treaty as amended by Article 1 of the Supplementary Act A/SA.3/01/10 which defines the legal regime of Acts of the Community;

MINDFUL of Article 12 of the Supplementary Act A/SA.1/12/16 of 17th December 2016 prescribing areas which require the approval of the Community Parliament in the adoption of Acts in the Community;

BEARING IN MIND the provisions of Chapter VIII of the Revised ECOWAS Treaty relating to trade liberalization, Common External tariff, duties and import duties;

MINDFUL of Supplementary Protocol A/SP. 1/12/03 amending Article 6 of Protocol A/P. 2/1/03 relating to the application of compensation procedures for loss of revenue incurred by ECOWAS Member States as a result of the trade liberalization scheme;

CONVINCED that a common fiscal framework promotes economic activities and strengthens economic relations between economic operators of Member States;

CONSIDERING the lack of a general agreement on cooperation and assistance in matters of taxation among Member States;

BEARING IN MIND ALSO the provisions of Article 40 of the Revised ECOWAS Treaty in which Member States undertake to eliminate double taxation with respect to taxes on income, capital and inheritance without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including treaty shopping arrangements aimed at obtaining reliefs provided in this Supplementary Act for the indirect benefit of residents of non-Member States), and to facilitate cross-border trade;

DESIROUS of establishing a Supplementary Act to avoid double taxation and rules on mutual assistance to combat tax avoidance and tax evasion to further develop their economic relationship and to enhance their co-operation in tax matters among Member States;

UPON THE ADVICE of the 61st meeting of the Technical Committee on Trade, Customs and Free Movement, held in Lome, Togo on 18th October, 2018.

UPON THE ADVICE of the 4th meeting of the ECOWAS Ministers of Finance on 2 November 2018 in Abuja

MINDFUL of the opinion given by the Community Parliament;

UPON THE RECOMMENDATION of the 81st Session of the Council of Ministers held in Abuja on 15 December;

HEREBY AGREE AS FOLLOWS:

CHAPTER I
TERMS AND EXPRESSIONS IN THE SUPPLEMENTARY ACT

ARTICLE 1
DEFINITIONS

For the purposes of this Supplementary Act, unless the context otherwise requires:

a) The term "ECOWAS" means the Economic Community of West African States referred to under Article 2 of the Revised Treaty of 24th July, 1993;

b) the terms "Member States", "another Member State" and "the other Member States" mean one or more Member States of ECOWAS, depending on the context;

c) the term "territory of a country" means the territory of each Member State, including, for coastal countries the territorial sea, areas adjacent to territorial waters as well as the exclusive economic zone and the continental shelf on which this country exercises its sovereignty in accordance with international law and national legislations for the purpose of exploring and exploiting natural, biological and mineral resources available in sea water, soil and sub-soil of the said country, as well as the territorial airspace;

d) the term "person" includes an individual, a company and any other body of persons;

e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

f) the terms "enterprise of a Member State" and "enterprise of the other Member State" mean respectively any business carried on by a resident of a Member State and any business carried on by a resident of the other Member State;

g) the term "international traffic" means any transport by a ship, aircraft, boat, rail or road transport vehicle and any other means of transport operated by an enterprise of a Member State, except when the means of transport is operated solely between places in the Member States;

h) the term "competent authority" means Ministers responsible for Finance of Member States or the duly authorized representative of Member States;

i) the term "national" means:
   i. any individual possessing the citizenship of a Member State; and
   ii. any legal person, partnership or association deriving its status as such from the laws in force in a Member State;

j) the term "tax" means taxes of Member States as listed in the Annex to this Supplementary Act as the context requires;

k) the term "Commission" means the Commission established by Article 17 of the revised ECOWAS Treaty and amended by Supplementary Protocol A/SP1/06/06 of 14 June 2006.

l) The term "Treaty" means the Revised Treaty of the Economic Community of West African States of 24th July, 1993 and its subsequent amendments;

ARTICLE 2

TERMS AND EXPRESSIONS NOT DEFINED

1. In the application of this Supplementary Act by a Member State, any term, expression or concept not defined therein shall have the meaning which it has under the laws of that Member State in respect of the taxes to which the Supplementary Act applies except if:
   a) the context requires a different interpretation;
   b) their meaning is mutually agreed between the competent authorities, in accordance with the provisions of Article 38 (Mutual Agreement Procedure);
2. For the purposes of paragraph 1 of this Article, the meaning attributed by the tax laws of the Member State concerned to the term or concept not defined in this Supplementary Act takes precedence over the meaning attributed by other laws of that Member State.

CHAPTER II

SCOPE OF THE SUPPLEMENTARY ACT

ARTICLE 3

OBJECT

The aim of this Supplementary Act is to establish among the Member States of the Economic Community of West African States (ECOWAS) rules for the elimination of double taxation with respect to taxes on income, capital and inheritance without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including treaty shopping arrangements aimed at obtaining reliefs provided in this Supplementary Act for the indirect benefit of residents of non-Member States).

ARTICLE 4

PERSONS COVERED

1. This Supplementary Act shall apply to persons who are resident of one or more ECOWAS Member States.
2. For the purposes of this Supplementary Act, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of any Member State shall be considered to be income of a resident of a Member State but only to the extent that the income is treated, for purposes of taxation by that Member State, as the income of a resident of that Member State.
3. This Supplementary Act shall not affect the taxation, by a Member State, of its residents except with respect to the benefits granted under the provisions of the Supplementary Act.

ARTICLE 5

TAXES COVERED

1. This Supplementary Act shall apply to taxes on income, capital and inheritance imposed on behalf of any of the Member States or of their political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries or remuneration paid by enterprises, as well as taxes on capital appreciation.

3. There shall be regarded as taxes on inheritance, taxes levied following death in the form of taxes on the property to be inherited, taxes on the share of heirs, transfer fees and taxes on donations by reason of death.

4. The existing taxes to which this Supplementary Act shall apply in each of the Member States are listed in the Annex to this Supplementary Act, of which it is an integral part.

5. This Supplementary Act shall apply also to any identical or substantially similar taxes that are imposed after the date of the entry into force of this Supplementary Act in addition to, or in place of existing taxes.

6. The competent authorities of the Member States shall communicate to the Commission of any significant changes that have been made in their respective taxation laws. The Commission shall take appropriate measures required by these amendments, when the need arises.

ARTICLE 6

RESIDENT

1. For the purposes of this Supplementary Act, the term "resident of a Member State" means any person who, under the laws of that Member State, is liable to tax therein by reason of that person's domicile, residence, place of incorporation, place of management or any other criterion of a similar nature and also includes that Member State and any political subdivision or local authority thereof.

2. This term, however, does not include any person who is liable to tax in that Member State in respect only of income from sources in that Member State or capital situated therein.

3. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of more than one Member State, then his status shall be determined in accordance with the following rules:

   a) he shall be deemed to be a resident only of the Member State in which he has a permanent home available to him. If he has a permanent home available to him in more than one Member State, he shall be deemed to be a resident of the Member State with which his personal and economic relations are closer (centre of vital interests);

   b) if the Member State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in any

of the Member States, he shall be deemed to be a resident only of the Member State in which he has a habitual abode;

c) if he has a habitual abode in more than one Member State or none of them, he shall be deemed to be a resident only of the State of which he is a national;

d) if he is a national of more than one Member State or of none of them, the competent authorities of the Member States shall settle the question by mutual agreement.

4. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of more than one Member State, the competent authorities of the Member States for which he is a resident shall endeavour to determine by mutual agreement the Member State of which such person shall be deemed to be a resident for the purposes of this Supplementary Act, having regard to its management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such mutual agreement, such person shall not be entitled to any relief or exemption from tax provided by this Supplementary Act except to the extent and in such manner as may be agreed upon by the competent authorities of those Member States.

ARTICLE 7

PERMANENT ESTABLISHMENT

1. For the purposes of this Supplementary Act, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include:

a) a place of management;
b) a branch;
c) an office;
d) a factory;
e) a workshop;
f) a warehouse, in relation to a person providing storage facilities for others;
g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and an installation or structure used for the exploration and exploitation of natural resources.

3. The term "permanent establishment" likewise encompasses:

a) a building site or construction, installation or assembly project, or supervisory activities in connection therewith, but only if the site, project or activity lasts more than six months within any 12-month period.

b) the furnishing of services, including consultancy services, by an enterprise of a Member State through employees or other personnel engaged by the enterprise for such purpose, provided that such activities continue for the same or a connected project for a period or periods aggregating to more than six months within any 12-month period commencing or ending in the fiscal year concerned.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise unless the use of the facilities for storage or display of goods or merchandise constitutes an essential part of the sale/distribution business of the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display unless the maintenance of stock of goods or merchandise constitutes an essential part of the sale/distribution business of the enterprise;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise unless the maintenance of stock of goods or merchandise constitutes an essential part of the business of the first mentioned enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise unless the maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information constitutes an essential part of the business of the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise; and

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character however, where the maintenance of a fixed place of business for any of the aforementioned activities constitutes an essential part of the business of the enterprise, the activities will not be regarded as having a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 7, where a person is acting in a Member State on behalf of an enterprise, that enterprise shall be deemed to have a permanent establishment in that Member State in respect of any activities which that person undertakes for the enterprise, if such a person:
   a) habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are
      i. in the name of the enterprise, or
      ii. for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or
      iii. for the provision of services by that enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
   b) the person does not habitually conclude contracts nor plays the principal role leading to the conclusion of such contracts, but habitually maintains in that Member State a stock of goods or merchandise from which that person regularly delivers goods or merchandise on behalf of the enterprise.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Member State shall, except in regard to re-insurance, be deemed to have a permanent establishment in another Member State if it collects premiums in the territory of that other Member State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise shall not be deemed to have a permanent establishment in a Member State merely because it carries on business in that Member State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he shall not be considered an agent of an independent status within the meaning of this paragraph.

8. The fact that a company which is a resident of a Member State controls or is controlled by a company which is a resident of another Member State, or which carries on business in that other Member State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III

TAXATION OF INCOME

ARTICLE 8

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Member State from immovable property, including income from agriculture or forestry, situated in another Member State may be taxed in that other Member State.

2. The term "immovable property" shall have the meaning which it has under the law of the Member State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources, including oil, gas and quarries. Ships, boats, aircraft, rail and road transport vehicles used in international traffic shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 9
BUSINESS PROFITS

1. The profits of an enterprise of a Member State shall be taxable only in that Member State unless the enterprise carries on business in another Member State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Member State but only so much of them as are attributable to:

    a) that permanent establishment;

    b) sales in that other Member State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or

    c) other industrial or business activities carried on in that other Member State of the same or similar kind as those effected through that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Member State carries on business in another Member State through a permanent establishment situated therein, there shall in that other Member State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the Member State in which the permanent establishment is situated or elsewhere, which are allowed under the provisions of the domestic law of the Member State in which the permanent establishment is situated. However,

    a) no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its

other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment.

b) no account shall be taken, in determining the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. In so far as it has been customary in a Member State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Member State from determining the profits to be taxed by such an apportionment as may be customary. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other Articles of this Supplementary Act, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 10
INTERNATIONAL TRAFFIC

1. Profits derived by an enterprise of a Member State from the operation of ships, aircraft, boats, rail or road transport vehicles and any other means of transport in international traffic shall be taxable only in that Member State.

2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 11

ASSOCIATED ENTERPRISES

1. Where:
   a) an enterprise of a Member State participates directly or indirectly in the management, control or capital of an enterprise of another Member State; or

   b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Member State and an enterprise of another Member State,

   and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Member State includes in the profits of an enterprise of that Member State - and taxes accordingly - profits on which an enterprise of another Member State has been charged to tax in that other Member State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Member State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Member State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be made to the other provisions of this Supplementary Act and the competent authorities of the Member States shall, if necessary, consult each other.

3. The provisions of paragraph 2 shall not apply where after judicial, administrative or other legal proceedings, a final decision states that due to actions leading to an adjustment of profits, one of the enterprises in question is liable to a penalty for fraud, gross negligence or deliberate default.

ARTICLE 12

DIVIDENDS

1. Dividends paid by a company which is a resident of a Member State to a resident of another Member State may be taxed in that other Member State.

2. However, dividends paid by a company which is a resident of a Member State may also be taxed in that Member State according to the laws of that Member State, but if the beneficial owner of the dividends is a resident of another Member State and is subject to tax on the dividends in that other Member State, the tax so charged in that Member State shall not exceed 10% of the amount of gross dividends.

   This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or income from other rights, not being debt claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Member State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Member State, carries on business in another Member State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Member State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 9 or Article 18, as the case may be, shall apply.

5. Where a company which is a resident of a Member State derives profits or income from another Member State, that other Member State may not:
   a) impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other Member State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Member State, nor
   b) subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Member State.

ARTICLE 13

INTEREST

1. Interest arising in a Member State and paid to a resident of another Member State may be taxed in that other Member State.

2. However, such interest may also be taxed in the Member State in which it arises and according to the laws of that Member State, but if the beneficial owner of the interest is a resident of another Member State and is subject to tax on the interest in that other Member State, the tax so charged in the Member State in which it arises shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Member States shall by mutual agreement settle the mode of application of this limitation.

3. The term "interest" as used in this Article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

4. Notwithstanding the provisions of paragraph 2, interest referred to in paragraph 1 shall be exempt from tax in the Member State where the interest arises if the recipient of the interest is the beneficial owner and if the:

   a) payer or the recipient of the interest is the Government of the Member State itself, a public body, a political subdivision or local authority thereof or the central bank of a Member State; or

   b) interest is paid in connection with a loan granted, approved, guaranteed or insured by the Government or the central bank of a Member State.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Member State, carries on business in another Member State in which the interest arises, through a permanent establishment situated therein, or performs in that other Member State independent personal services from a fixed base situated therein, and the debt claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 9 or Article 18, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Member State when the payer is a resident of that Member State. Where, however, the person paying the interest, whether he is a resident of a Member State or not, has in another Member State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Member State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Member State, due regard being made to the other provisions of this Supplementary Act.

ARTICLE 14
ROYALTIES

1. Royalties arising in a Member State and paid to a resident of another Member State may be taxed in that other Member State.

2. However, such royalties may also be taxed in the Member State in which they arise and according to the laws of that Member State, but if the beneficial owner of the royalties is a resident of another Member State and is subject to tax on the royalties in that other Member State, the tax so charged in the Member State in which it arises shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Member States shall by mutual agreement settle the mode of application of this paragraph.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films or films or tapes used for radio or television broadcasting, any software, patent, trade mark, design or model, plan, secret formula or process or for the use of or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Member State, carries on business in another

Member State in which the royalties arise, through a permanent establishment situated therein, or performs in that other Member State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 9 or Article 18, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Member State when the payer is a resident of that Member State. Where, however, the person paying the royalties, whether he is a resident of a Member State or not, has in another Member State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Member State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Member State, due regard being made to the other provisions of this Supplementary Act.

ARTICLE 15

TECHNICAL SERVICE FEES

1. Technical service fees arising in a Member State and paid to a resident of another Member State may be taxed in that other Member State.

2. However, such technical service fees may also be taxed in the Member State in which they arise, and according to the laws of that Member State, but if the beneficial owner of the technical service fees is a resident of another Member State and is subject to tax on the technical service fees in that other Member State, the tax so charged in the Member State in which it arises shall not exceed 5 per cent of the gross amount of the technical service fees in the case of an individual; and not exceeding 10 per cent in the case of a company. The competent authorities of the Member States shall by mutual agreement settle the mode of application of this paragraph.

3. The term "technical service fees" as used in this Article means any payment in consideration for any service of a managerial, technical or consultancy nature, unless the payment is made:

   a) to an employee of the person making the payment;
   b) for teaching in an educational institution or for teaching by an educational institution; or
   c) by an individual for services for the personal use of an individual.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the technical service fees, being a resident of a Member State, carries on business in another Member State in which the technical service fees arise through a permanent establishment situated therein, or performs in that other Member State independent personal services from a fixed base situated therein, and the obligation in respect of which the technical service fees are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 9 or Article 18, as the case may be, shall apply.

5. Technical service fees shall be deemed to arise in a Member State when the payer is that Member State itself, a political subdivision, a local authority or another resident of that Member State. Where, however, the person paying the technical service fees, whether he is a resident of a Member State or not, has in another Member State a permanent establishment or a fixed base in connection with which the obligation to pay the technical service fees was incurred, and where such technical service fees are borne by such permanent establishment or fixed base, then such technical service fees shall be deemed to arise in the Member State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or both of them and some other person, the amount of the technical service fees paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Member State, due regard being made to the other provisions of this Supplementary Act.

ARTICLE 16

CAPITAL GAINS

1. Gains derived by a resident of a Member State from the alienation of immovable property referred to in Article 8 and situated in another Member State may be taxed in that other Member State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Member State has in another Member State or of movable property pertaining to a fixed base available to a resident of a Member State in another Member State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other Member State.

3. Gains derived by an enterprise of a Member State from the alienation of ships, aircraft, boats, rail and road transport vehicles and any other means of transport , operated in international traffic or movable property pertaining to the operation of such means of transport shall be taxable only in that Member State.

4. Gains derived by a resident of a Member State from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in another Member State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property, as defined in Article 8, situated in that other Member State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Member State of which the alienator is a resident.

ARTICLE 17
DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 19, 21, 22 and 23, salaries, wages and other similar remuneration derived by a resident of a Member State in respect of an employment shall be taxable only in that Member State unless the employment is exercised in another Member State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Member State or those other Member States.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Member State in respect of an employment exercised in another Member State shall be taxable only in the first-mentioned Member State if the:

   a) recipient is present in the other Member State for a period or periods amounting to or not exceeding in the aggregate 183 days in any 12-month period commencing or ending in the fiscal year concerned; and

b) remuneration is paid by, or on behalf of an employer who is not a resident of the other Member States; and

c) remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Member States.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Member State in respect of an employment, as a member of the regular complement of a ship, an aircraft, a boat, a rail, road transport vehicle or any other means of transport that is exercised aboard a ship, an aircraft, a boat, a rail or road transport vehicle operated in international traffic, other than aboard a ship, an aircraft, a boat, a rail, road transport vehicle or any other means of transport operated solely within another Member State, shall be taxable only in the first-mentioned State.

ARTICLE 18

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Member State in respect of professional services or other activities of an independent character shall be taxable only in that Member State, unless:

   a) he has a fixed base regularly available to him in another Member State for the purpose of performing his activities; in that case, only so much of the income as is attributable to those activities may be taxed in that other Member State; or

   b) his stay in another Member State is for a period or periods amounting to or exceeding in the aggregate 183 days in any 12-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other Member State may be taxed in that other Member State.

2. The term "professional services" includes especially independent scientific, literary, artistic, vocational, educational, or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists, auctioneers and accountants.

ARTICLE 19

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Member State in his capacity as a member of the board of directors of a company or a similar organ of a company which is a resident of another Member State may be taxed in that other Member State.

ARTICLE 20

ARTISTES AND SPORTS PERSONS

1. Notwithstanding the provisions of Articles 9, 17 and 18, income derived by a resident of a Member State as an entertainer such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that person's personal activities as such exercised in another Member State, may be taxed in that other Member State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that person's capacity as such accrues not to the entertainer or sportsperson but to another person, that income may, notwithstanding the provisions of Articles 9, 17 and 18, be taxed in the Member State in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities, referred to in paragraph 1, performed under a cultural or sports agreement or arrangement between the Member States shall not be taxed in the Member State in which the activities are exercised if the visit to that Member State is wholly or substantially supported by funds of any of the Member States, their local authorities or public institutions thereof.

ARTICLE 21

PENSIONS, ANNUITIES AND SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 22, pensions and other similar payments, annuities and social security payments arising in a Member State and paid in consideration of past employment to a resident of another Member State, shall be taxable only in that Member State.

2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 22

GOVERNMENT SERVICE

1. a) Salaries, wages, and other similar remunerations, other than a pension or social security payment, paid by a Member State or a political subdivision, local authority or statutory body thereof to an individual in respect of services rendered to that Member State or subdivision, authority or body shall be taxable only in that Member State.

   b) However, such salaries, wages and other similar remunerations shall be taxable only in the other Member State if the services are rendered in that other Member State and the individual is a resident of that other Member State who:
      i. is a national of that other Member State; or
      ii. did not become a resident of that other Member State solely for the purpose of rendering the services.

2. The provisions of Articles 17, 19, 20 and 21 shall apply to salaries, wages and other similar remunerations, and to pensions, in respect of services rendered in connection with a business carried on by a Member State, or a political subdivision, local authority or statutory body thereof.

ARTICLE 23

MISCELLANEOUS RULES APPLICABLE TO EXPLORATION AND EXPLOITATION ACTIVITIES

1. The provisions of this Article shall apply notwithstanding any other provision of this Supplementary Act where activities are carried on in connection with the exploration or exploitation of natural resources in the subsoil or the sea bed (in this Article called "activities") of Member States.

2. An enterprise of a Member State which carries on such activities in another Member State shall, subject to paragraph 3 of this Article, be deemed to be carrying on business in that other Member State through a permanent establishment situated therein.

3. Such activities which are carried on by an enterprise of a Member State in another Member State for a period or periods exceeding in the aggregate 30 days within any period of 12- months shall constitute the carrying on of business through a permanent establishment situated therein. For the purposes of this paragraph:

    a. where an enterprise of a Member State carrying on such activities in another Member State is associated with another enterprise carrying on substantially similar activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, except to the extent that those activities are carried on at the same time as its own activities;

    b. an enterprise shall be regarded as associated with another enterprise if one participates directly or indirectly in the management, control or capital of the other or if the same persons participate directly or indirectly in the management, control or capital of both enterprises.

4. Salaries, wages and similar remunerations derived by a resident of a Member State in respect of an employment connected with such activities in another Member State may, to the extent that the duties are performed in that other Member State, be taxed in that other Member State.

5. Gains derived by a resident of a Member State from the alienation of:

    a. exploration or exploitation rights; or

    b. shares (or comparable instruments) deriving their value or the greater part of their value directly or indirectly from such rights situated in another Member State, may be taxed in that other Member State.

6. In this Article "exploration or exploitation rights" mean rights to assets to be produced by the exploration or exploitation of natural resources in the subsoil or the sea bed of a Member State, including rights to interests in the assets or to the benefits of those assets.

ARTICLE 24

PROFESSORS AND RESEARCHERS

1. Notwithstanding the provisions of Article 17, an individual who makes a temporary visit to one of the Member States for a period not exceeding two years for the purpose of teaching or carrying out research at a university, college, school or other recognised educational institution in that Member State and who is, or immediately before such visit was, a resident of another Member State shall, in respect of

remuneration for such teaching or research, not be taxed in the first-mentioned Member State, provided that such remuneration is derived by him from outside that Member State.

2. The provisions of this Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the benefit of a specific person or persons or for the purpose of business profit.

ARTICLE 25

STUDENTS, TRAINEES AND APPRENTICES

1. A student or business trainee or apprentice who is present in a Member State solely for the purpose of the student's or business trainee's or apprentice's education or training and who is, or immediately before so present was, a resident of another Member State, shall not be taxed in the first-mentioned Member State on payments received from outside that first-mentioned Member State for the purposes of the student's or business trainee's or apprentice's maintenance, education or training.

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student, business trainee or apprentice described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, reliefs or reductions in respect of taxes available to residents of the Member State which he is visiting.

ARTICLE 26

OTHER INCOME

1. Subject to the provisions of paragraph 2 of this Article, items of income of a resident of a Member State, wherever arising, not dealt with in the foregoing Articles of this Supplementary Act shall be taxable only in that Member State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 8, if the recipient of such income, being a resident of a Member State, carries on business in another Member State through a permanent establishment situated therein, or performs in that other Member State independent personal services from a fixed base situated

therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 9 or Article 18, as the case may be, shall apply.

CHAPTER IV
INHERITANCE TAX

ARTICLE 27
TAXES CONCERNED

1. This Article applies to inheritance taxes imposed on behalf of each Member State.
2. There shall be considered as inheritance taxes, taxes imposed as a result of death, as estate tax, taxes on shares of heirs, transfer rights, or gift taxes due to death.

3. The existing taxes to which this Article shall apply in each Member State are listed in the Annex of this Supplementary Act.

ARTICLE 28
IMMOVABLE PROPERTY

Immovable property including accessories is only subject to inheritance tax in the Member State in which they are located; livestock or dead stock used in agriculture or forestry shall be taxable only in the Member State where the holding is located.

ARTICLE 29
MOVABLE PROPERTY

Tangible or intangible property left by a deceased person who at the time of death was domiciled in a Member State and, invested in a commercial, industrial or small business of any kind are subject to inheritance tax based on the rules below:

a) if the company has a permanent establishment in only one Member State, the property shall be taxable only in that Member State; the same shall apply even where the company expands its operations to the territory of the other Member States without maintaining a permanent establishment;

b) if the company has a permanent establishment in several Member States, the property shall be taxable in each Member State in so far as they are

attributed to a permanent establishment located in the territory of each of them. However, the provisions of this Article shall not apply to investments made by the deceased in companies with share capital, stock companies, limited liability companies, cooperative societies, civil societies subject to the taxation of capital companies, or in the form of sponsorship under companies established as limited partnerships.

ARTICLE 30

MOVABLE PROPERTY USED FOR THE PERFORMANCE OF INDEPENDENT PERSONAL SERVICES

Tangible or intangible movable property connected to permanent facilities and assigned to the performance of independent personal services in one of the Member States are only subject to inheritance tax in the Member State where these facilities are located.

ARTICLE 31

OTHER MOVABLE PROPERTY

Tangible personal property including household furniture, clothes and household goods as well as art, objects and collections other than the property included in Articles 29 and 30 above, shall be taxable only in the Member State where they actually are, at the date of death. However, ships and aircraft shall be taxable only in the Member State where they were registered.

ARTICLE 32

OTHER INHERITED PROPERTY

The assets of the estate to which Articles 28 and 31 of this Supplementary Act does not apply shall be subject to inheritance tax only in the Member State where the deceased was domiciled at the time of death.

ARTICLE 33

CORPORATE DEBT

1. Debts of Corporate entities referred to in Articles 29 and 30 above are charged against the property of those companies. If the company has, as the case may be, a permanent establishment or permanent facility in several Member States, the debts shall be charged against the property of the establishment or facility on which they depend.

2. Debts secured either by real estate or real property, or by ships or aircraft referred to in Article 31 above, or by movable property used for the performance of independent personal services under the conditions laid down in Article 30 above, or by property assigned to a company of the nature referred to in Article 29 above, are charged against such properties. If the same debt is secured by property located in several Member States, the allocation is done on the property located in each Member State in proportion to the taxable value of such property.

   This provision shall not apply to debts referred to in paragraph 1 since these debts are not covered by the allocation provided for in that paragraph.

3. Debts not provided for in paragraphs 1 and 2 of this Article shall be charged on the properties covered by the provisions of Article 32 of this Supplementary Act.

4. If the procedure provided for in the three preceding paragraphs leaves an outstanding balance in a Member State, the balance is deducted from other property subject to inheritance tax in this same Member State. If there is no property subject to tax in that Member State or if the deduction still leaves an outstanding balance, this balance is allocated proportionally over the property subject to tax in the other Member States.

CHAPTER V

ELIMINATING DOUBLE TAXATION

ARTICLE 34

ELIMINATION OF DOUBLE TAXATION

Double taxation shall be eliminated as follows:

1. Where a resident of a Member State derives income from another Member State, which in accordance with the provisions of this Supplementary Act, may be taxed in that other Member State, the first-mentioned Member State shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other Member State.

2. Where a resident of a Member State owns capital in another Member State, which in accordance with the provisions of this Supplementary Act, may be taxed in that other Member State, the first-mentioned Member State shall allow as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other Member State.

3. Where a resident of a Member State inherits property in another Member State, which in accordance with the provisions of this Supplementary Act, may be taxed in that other Member State, the first-mentioned Member State shall allow as a deduction from the tax on inheritance of that resident, an amount equal to the inheritance tax paid in that other Member State.

4. The deduction to be allowed under paragraph 1, 2 or 3 of this Article shall not, in either case, exceed that part of the income tax, capital tax or inheritance tax as computed before the deduction is given, which is attributable, as the case may be, to the income, the capital or the inheritance which may be taxed in that Member State.

5. Where, in accordance with any provision of this Supplementary Act, income derived, capital owned or property inherited by a resident of a Member State is exempted from tax in another Member State, that Member State may nevertheless, in calculating the amount of tax on the remaining income, capital or inheritance of such resident, take into account the income, capital or inheritance exempted.

CHAPTER VI

SPECIAL PROVISIONS

ARTICLE 35

NON-DISCRIMINATION

1. Nationals of a Member State shall not be subjected in another Member State to any taxation or any requirements connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other Member State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 3, also apply to persons who are not residents of any of the Member States.

2. The taxation of a permanent establishment which an enterprise of a Member State has in another Member State shall not be less favourably levied in that other Member State than the taxation levied on enterprises of that other Member State carrying on the same activities.

3. Enterprises of a Member State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of another Member State, shall not be subjected in the first-mentioned Member State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Member State are or may be subjected.

4. Nothing in this Article shall be construed as obliging a Member State to grant to residents of another Member State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

5. Except where the provisions of Article 11, paragraph 6 of Article 13, paragraph 6 of Article 14 or paragraph 6 of Article 15 apply, interest, royalties, technical service fees and other disbursements paid by an enterprise of a Member State to a resident of another Member State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Member State. Similarly, any debts of an enterprise of a Member State to a resident of another Member State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned Member State.

6. In this Article the term "taxation" means taxes which are the subject of this Supplementary Act.

ARTICLE 36

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of any of the Member States results or will result for that person in taxation not in accordance with the provisions of this Supplementary Act, that person may, irrespective of the remedies provided by the domestic law of those Member States, present a case to any of the competent authorities of the Member States concerned by that action. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Supplementary Act.

2. The competent authority of that Member State shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Member State, with a view to the avoidance of taxation which is not in accordance with this Supplementary Act. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Member States.

3. The competent authorities of the Member States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Supplementary Act. They may also consult together for the elimination of double taxation in cases not provided for in this Supplementary Act.

4. The competent authorities of the Member States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of paragraphs 2 and 3 of this Article.

ARTICLE 37
EXCHANGE OF INFORMATION

1. The competent authorities of the Member States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Supplementary Act or to the administration or enforcement of the domestic laws of the Member States concerning taxes of every kind and description imposed on behalf of the Member States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Supplementary Act. The exchange of information is not restricted by Articles 4 and 5.

2. Any information received under paragraph 1 by a Member State shall be treated as secret in the same manner as information obtained under the domestic laws of that Member State and shall be disclosed only to persons or authorities (including courts or administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Supplementary Act. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Member State may be used for other purposes, when such information may be used for such other purposes under the laws of both Member States and the competent authority of the supplying Member State authorizes such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Member State the obligation:

   a) to carry out administrative measures at variance with the laws and administrative practice of that Member State or of another Member State;

   b) to supply information which is not obtainable under the laws or in the normal course of the administration of that Member State or of another Member State; and

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Member State in accordance with this Article, the other Member State shall use its information gathering measures to obtain the requested information, even though that other Member State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Member State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Member State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 38
ASSISTANCE IN THE COLLECTION OF TAXES

1. Member States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 4 and 5. The competent authorities of the Member States may by mutual agreement settle the mode of application of this Article.

2. When a revenue claim of a Member State is enforceable under the laws of that Member State and is owed by a person who, at that time, cannot, under the laws of that Member State, prevent its collection, that revenue claim shall, at the request of the competent authority of that Member State, be accepted for purposes of collection by the competent authority of another Member State. That revenue claim shall be collected by that other Member State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other Member State.

3. When a revenue claim of a Member State is a claim in respect of which that Member State may, under its laws, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that Member State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Member State. That other

Member State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Member State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Member State or is owed by a person who has a right to prevent its collection.

4. Notwithstanding the provisions of paragraphs 2 and 3, a revenue claim accepted by a Member State for purposes of paragraph 2 or 3 shall not, in that Member State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that Member State by reason of its nature as such. In addition, a revenue claim accepted by a Member State for the purposes of paragraph 2 or 3 shall not, in that Member State, have any priority applicable to that revenue claim under the laws of the other Member State.

5. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Member State shall not be brought before the courts or administrative bodies of another Member State.

6. Where, at any time after a request has been made by a Member State under paragraph 2 or 3 and before the other Member States have collected and remitted the relevant revenue claim to the first-mentioned Member State, the relevant revenue claim ceases to be:

   a) in the case of a request under paragraph 2, a revenue claim of the first-mentioned Member State that is enforceable under the laws of that Member State and is owed by a person who, at that time, cannot, under the laws of that Member State, prevent its collection, or

   b) in the case of a request under paragraph 3, a revenue claim of the first-mentioned Member State in respect of which that Member State may, under its laws, take measures of conservancy with a view to ensuring its collection,

the competent authority of the first-mentioned Member State shall promptly notify the competent authority of the other Member State of that fact and, at the option of the other Member States, the first-mentioned Member State shall either suspend or withdraw its request.

7. In no case shall the provisions of this Article be construed so as to impose on a Member State the obligation to:

a) carry out administrative measures at variance with the laws and administrative practice of that Member State or of another Member State;

b) carry out measures which would be contrary to public policy (*ordre public*);

c) provide assistance if the other Member States have not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

d) provide assistance in those cases where the administrative burden for that Member State is clearly disproportionate to the benefit to be derived by the other Member States.

8. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of any Member State, or of its political subdivision or local authority, insofar as the taxation thereunder is not contrary to this Supplementary Act or any other instrument to which the Member States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

ARTICLE 39

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Supplementary Act shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 40

ENTITLEMENT TO BENEFITS

Notwithstanding the provisions of this Supplementary Act, a benefit therein shall not be granted in respect of an item of income, capital or inheritance if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Supplementary Act.

CHAPTER VII

FINAL PROVISIONS

ARTICLE 41
DELEGATION OF POWERS

The Council of Ministers shall take the necessary steps on behalf of the Commission and other measures for the application of the Supplementary Act.

ARTICLE 42
PUBLICATION

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 Chairman of the Authority of Heads of State and Government. It shall also be published by each Member State in its National Gazette within thirty (30) days after notification by the Commission.

ARTICLE 43
ENTRY INTO FORCE

1. This Supplementary Act shall enter into force upon publication. Consequently, Member States and the Institutions of ECOWAS undertake to commence the implementation of its provisions on its entry into force as indicated in paragraph 2 of this Article.

2. The provisions of the Supplementary Act shall have effect in the Member States with respect to:

   a) taxes withheld at the source on income received or derived from 1st January of the year following that of entry into force of this Supplementary Act;

   b) other taxes on income and capital, for any tax year or taxable period from 1st January of the year following that of its entry into force;

   c) the inheritance tax on the estates of people whose death will occur from and including the day of entry into force of this Supplementary Act;

3. This Supplementary Act shall be annexed to the Revised ECOWAS Treaty of which it shall form an integral part.

ARTICLE 44

AMENDMENT AND REVISION

1. Any Member State may submit proposals for the amendment or revision of this Supplementary Act to the Commission.

2. All proposals submitted to the President of the Commission shall be forwarded to the Member States not later than thirty (30) days after their receipt. The Authority of Heads of State and Government shall consider proposals for amendment or revision at the expiration of a period of three (3) months granted to Member States.

3. The amendments or revisions shall be adopted by the Authority of Heads of State and Government. The adopted amendments and revisions shall enter into force upon their publication as indicated in Article 42 of this Supplementary Act.

ARTICLE 45

DEPOSITARY AUTHORITY

This Supplementary Act shall be deposited with the Commission, which shall transmit certified copies of this Act to all Member States and shall register this Act with the African Union, the United Nations Organizations and such other organizations as Council may determine.

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

DONE AT ABUJA THIS 22 DECEMBER 2018

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

ANNEX I: LIST OF TAXES

#	MEMBER STATES	LIST OF TAXES
1	**BENIN**	i. Corporate Income Tax;
		ii. Personal Income Tax a. Tax on Business, commercial and agricultural profits; b. Capital Gains; c. Tax on non-commercial professional earnings; d. Wages and Salaries; e. Movable Capital Incomes; f. Securities Incomes; g. Receivables, deposits and bonds Incomes ; h. Land/Property Income.
		iii. Special withholding tax on games of chance incomes;
		iv. Inheritance Rights.
2	**BURKINA FASO**	i. Corporate Tax ;
		ii. Tax on Business, commercial and agricultural profits;
		iii. Tax on non-commercial professional earnings;
		iv. Single Wages and Salaries Tax;
		v. Withholding Taxes on betting gains and other games of chance;
		vi. Equity Income Tax;
		vii. Land Incomes Tax;
		viii. Capital gains tax;
		ix. Specific mining securities transfer incomes tax ;
		x. Specific corporate securities transfer incomes tax ;
		xi. Inheritance Rights/Tax.
3	**CAPE VERDE**	i. Personal Incomes Tax;
		ii. Legal person Incomes Tax ;
		iii. Legal persons Incomes Additional Taxes.

		
4	**COTE D'IVOIRE**	i. Tax on Business, commercial and agricultural profits;
		ii. Tax on Non-commercial earning;
		iii. Taxes on wages, salaries, pensions and annuities ;
		iv. Tax on Income from Securities;
		v. Receivable Income Tax ;
		vi. Land Income Tax ;
		vii. Land Heritage Tax ;
		viii. General Income Tax.
5	**THE GAMBIA**	i. Corporate Income Tax a. Business profits b. Dividend income c. Interest income d. Rental income e. Royalties Income
		ii. Personal Tax a. Business profits b. Dividend income c. Interest income d. Rental income e. Royalties Income f. Employment income
		iii. Capital Gains;
		iv. Property Tax.
6	**GHANA**	Income Tax.
7	**GUINEA BISSAU**	i. Industrial Contribution: - Group A - Group B - Cashew - Transport
		ii. Land/Property Tax: - Urban - Rustic

		iii. Professional/Business Tax: - Public - Private
		iv. Complementary Charge;
		v. Capital Tax ;
		vi. Land /Property Tax: - SISA - Inheritance and Donation - Transactions.
8	**GUINEA CONAKRY**	i. Taxes on Wages and Salaries (RTS, VF et TA);
		ii. Tax on Business and Commercial profits (BIC);
		iii. Tax on agricultural profits (BA);
		iv. Non-professional Incomes Tax ;
		v. Equity Income Tax; (RCM);
		vi. Corporate Tax (IS);
		vii. Minimum Tax Rate (IMF);
		viii. Unearned Incomes Tax ;
		ix. Flat Levies on local purchase of goods and services and to import;
		x. Single Land Contribution. (CFU);
		xi. Registration and Stamp Duties.
9	**LIBERIA**	i. Corporate Income Tax;
		ii. Personal Income Tax;
		iii. Capital Gains Tax;
		iv. Withholding Taxes on Interest;
		v. Withholding Taxes on Dividend;

		vi. Real Property Tax;
		vii. Inheritance Tax;
		viii. Tax on game of chance.
10	**MALI**	i. Wages and Salaries Tax;
		ii. Securities Income Taxes;
		iii. Tax on Receivable and Deposits revenue;
		iv. Business and commercial profit Tax ;
		v. Corporate Tax ;
		vi. Land Income Tax ;
		vii. Tax on Agricultural Profits;
		viii. Real estate valuation Specific Tax;
		ix. Transfer capital gain on mining securities;
		x. Tax on Transfer capital gain performed by the private ;
		xi. Registration ;
		xii. Stamp duty.
11	**NIGER**	i. Income Tax (ISB);
		ii. Tax on Wages and Salaries (ITS);
		iii. Equity Income Tax (IR CM);
		iv. Property/Land Tax;
		v. Real estate valuation tax;
		vi. Death Transfer Tax.

		
12	**NIGERIA**	i. Personal Income Tax;
		ii. Companies Income Tax;
		iii. Petroleum Profits Tax;
		iv. Capital Gains Tax;
		v. Tertiary Education Tax;
		vi. National Information Technology Development Levy (hereinafter referred to as "Nigerian tax").
13	**SENEGAL**	i. Corporate Tax (IS) ;
		ii. Personal Income Tax (IRPP) ;
		iii. Minimum Tax Rate (IMF) ;
		iv. Flat rate contribution by Employer ;
		v. Land\Property Tax ;
		vi. Death Transfer Tax.
14	**SIERRA LEONE**	i. Corporate Income Tax;
		ii. Personal Income Tax (sole proprietor and partnerships);
		iii. Employment income including withholding taxes;
		iv. Capital Gain Tax;
		v. Inheritance tax.
15	**TOGO**	i. Personal Income Tax (IRPP);
		ii. Corporate Tax (IS);
		iii. Minimum Tax Rate (IMF);
		iv. Inheritance Tax/Right;
		v. Registration and stamp duty;
		vi. Property tax.

H.E. PATRICK ATHANASE TALON
President of the Republic of Benin

H.E. ROCH MARC CHRISTIAN KABORE
President of Burkina Faso

H.E JORGE CARLOS DE ALMEIDA FONSECA
Prime Minister of Cape Verde

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President of the Togolese Republic

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

54TH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22ND DECEMBER, 2018

SUPPLEMENTARY ACT A/SA.7/12/18 FIXING COMMUNITY RULES OF ORIGIN AND PROCEDURES APPLICABLE TO GOODS ORIGINATING IN THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

HAVING REGARD TO articles 7, 8 and 9 of the ECOWAS Treaty on the establishment of the Authority of Heads of State and Government and defining its composition and functions;

HAVING REGARD TO articles 35, 54 and 55 of the revised treaty, on liberalization of trade, establishment and completion of customs and monetary union in the community,

HAVING REGARD TO the Supplementary Act A/SA.2/12/17 on the adoption of the ECOWAS customs code of 16th December 2017

HAVING REGARD TO the Supplementary Act A/SA.2/01/10 of 16th February 2010 on electronic transactions in the ECOWAS region

HAVING REGARD TO the Protocol A/P5/5/82 on the Mutual Administrative Assistance in customs matters Convention of 29th May 1982

WILLING to align the definition of the notion of products originating from members States to the rules of the World Trade Organization and modify;

ACKNOWLEDGING that a high degree of certainty on the origin of goods is crucial to the development of a strong industrial base and intra-community trade

AFFIRMING that a high degree of mutual trust between member States is of utmost importance;

MINDFUL OF the need to harmonize the integration programs of the Economic Community of West African States and the West African Economic and Monetary Union with a view to establish a unified regional economic zone in West Africa;

HAVE AGREED AS FOLLOWS:-

CHAPTER I: GENERAL PROVISIONS

ARTICLE ONE: DEFINITIONS

For the purpose of this Supplementary Act,

« Treaty » means The Revised Treaty of the Economic Community of West African States, signed on 24th July 1993 in Cotonou.

« Community » means The Economic Community of West African States whose establishment was reaffirmed under article 2 of the Treaty.

« Member State »or « Members States » means A Member State of the Community

« Authority » means The Authority of Heads of State and Government established under article 7 of the Treaty

« Council » means The Community Council of Ministers, established under article 10 of the Treaty

« Commission » means The ECOWAS Commission established under article 17 of the Treaty;

« Committee » means **Technical Committee on** Trade, Customs and Free Movement of People established under article 22, paragraph 1 new, of the Supplementary Protocol A/SP.1/06/06 ;

« Rules of origin » means specific provisions put in place and implemented to determine the origin of goods and that should be applied in order to grant preferential tariff treatment or other trade policy measures;

« Origin Criteria » means conditions that should be fulfilled in relation to the manufacturing of goods so that the originating status of goods may turn out to conform to applicable rules of origin;

« Invoice declaration of origin» means an appropriate indication, relating to the origin of the goods written on the commercial invoice or any other document linked to the goods at the point of export by the manufacturer, producer, supplier, exporter or any other authorized person

« Certificate of origin » means a prescribed form used in identifying the goods and wherein the authority or body empowered to issue it expressly certifies that the goods linked to the certificate are originating from the Member State.

« Certification of origin » means a series of procedures which allow to establish the originating status of goods by tendering a proof of origin;

« Certified declaration of origin » means a declaration of origin certified by an authority or a body empowered to do so;

« Documentary proof of origin » refers to a document or an attestation (in paper or electronic format) that serve as evidence to the fact that the goods linked to it conform to the criteria of origin in accordance with the applicable rules of origin. It can be a certificate of origin, a self-issued certificate of origin or a declaration of origin.

« **Material** » refers to a product used to manufacture another product

« **Non-originating product or non-originating material** » refers to a product or a material that is not eligible to be accepted as originating product or material in accordance with this Supplementary Act;

« **Product** » refers to any good, article or material;

« **Originating product or originating material** » refers to a product or a material that is eligible to be accepted as originating product or originating material in accordance with this Supplementary Act

« **Import duties** » means all customs duties and taxes of equivalent effect which appears in the ECOWAS Common External Tariff, levied on goods at importation

« **Preferential tariff treatment** » means exemption arrangements from import duties on imported goods

« **Electronic signature**» means any data resulting from the use of a reliable identification process which ensures its connection to the act relating to it;

« **Customs value** » means the value that is determined in accordance with Regulation C/REG.2/06/13 relating to the determination of customs value of goods in ECOWAS

« **Value of materials** » means the implemented customs value at the time of importing non-originating materials or if not known or cannot be determined, the first ascertainable payment for the materials in the manufacturing country

« **Input** » means all material, product involved in the manufacturing process

« **Chapters** » »**headings** » and « **subheadings** » refer to the chapters (two digits), the headings (four digits) and the subheadings (ten digits) used in the ECOWAS nomenclature based on the Harmonized commodity description and coding System (HS)

« **Shipment** » means products shipped simultaneously from a single exporter to a single consignee or shipped under the cover of a single transport document from the exporter to the consignee or in the absence of such document, covered by the invoice only

"**Community Customs territory**" means the customs territory of the Community as defined by article 3 of the ECOWAS Customs Code

« **Free zone** » means a part of the territory of a member State where goods introduced there are generally regarded as not located on the customs territory in terms of import duties and taxes.

ARTICLE 2: OBJECTIVE OF THIS SUPPLEMENTARY ACT

This supplementary Act defines the rules of origin of community products and the procedures applicable to products originating from the community that are sent from a Member State to another Member State and are eligible for the Community preferential tariff treatment.

TITLE II: PROVISIONS ON THE DETERMINATION OF COMMUNITY ORIGIN

ARTICLE 3: RULES OF ORIGIN OF THE COMMUNITY PRODUCTS

1. In accordance with the provisions of article 38 of the ECOWAS Revised Treaty, the following are regarded as originating from the community :

    a. Products wholly obtained in one or several Member States under article 4 of this supplementary Act;

    b. Products obtained in one or several Member States and containing non-originating raw materials, provided that these raw materials have undergone sufficient processing or transformation in the Community under article 5 of this Supplementary Act.

2. Originating products made of materials wholly obtained or sufficiently transformed in two or many Member States are regarded as products originating from the Member State where the last processing or transformation took place as long as the processing or transformation carried out goes beyond those covered under article 6 of this Supplementary Act.

ARTICLE 4: PRODUCTS WHOLLY OBTAINED

1) The following are regarded as wholly obtained in the community :
a. Animals that are given born and raised therein ;
b. Mineral products extracted from the community's soils, seabed or sea floor ;
c. Mineral products extracted from seabed located outside territorial waters, as long as the Member State, has exclusive rights on this seabed for the purpose of exploitation ;
d. vegetable products harvested there;
e. Products obtained from live animals that are raised there ;
f. Products obtained from hunting and fishing activities conducted therein ;
g. Aquaculture products including mariculture, when the animals are raised from eggs, larva or fingerlings ;
h. Products obtained from sea fishing and other products obtained from the sea by the ships of Member States outside their territorial waters ;

i. Products manufactured on board their factory ships solely from products mentioned in subparagraph (h) above ;
j. Used articles that are gathered only for the purpose of recovery of the raw materials or to be used as wastes ;
k. Wastes coming from manufacturing operations carried out there ;
l. Goods manufactured solely from substances mentioned in paragraph (b) to (k), or from materials not having any element imported from countries other than Member States or of unknown origin ;
m. Electric power produced there.

2. The expressions « their ships » and « their factory-ships » mentioned in paragraph 1, subparagraph (h) and (i), only apply to ships and factory-ships which comply with the cumulative conditions hereafter:

   a. To be registered in a Member State ;

   b. Fly the flag of a Member State ;

   c. The crew including its command staff should consist of at least 50% of nationals from Member States

ARTICLE 5: PRODUCTS SUFFICIENTLY PROCESSED OR TRANSFORMED

For the purpose of implementing this supplementary Act, the following are regarded as sufficiently processed or transformed within the community:

Either:

1. Products, the manufacture of which, the non-originating materials used are classified under a different tariff heading from that of the final product;
   This rule comes with a list of exceptions which indicates cases whereby the change in tariff heading is not decisive or imposes additional conditions.
   This list of exception shall be determined by regulation of the Council of Ministers. Or,

2. Products, the manufacture of which the content of all non-originating materials is expressed as a percentage. The rate of the content of the non-originating materials will be determined by Regulation of the Council of Ministers

ARTICLE 6 : INSUFFICIENT PROCESSING OR TRANSFORMATIONS

1. The following operations are considered insufficient processing or transformations to confer the status of originating products whether or not the conditions under article 5 above are fulfilled :

a. Operations aimed at keeping the products in good condition during transportation and storage (ventilation, spreading, drying, cooling, putting in salt water, addition of Sulphur or other substances, removal of damaged portions and similar operations) ;

b. Simple operations like dust removing, screening, sorting out, classifying, assortment (including the make-up of sets of articles), washing, painting, cutting ;

c. Simple packaging operations

   i. Changing of packaging and division and gathering of parcels ;

   ii. Simple placing in bottles, flasks, cans, bags, cases, boxes, fixing on cards or boards, etc., as well as any other simple packaging operations ;

d. Affixing trade labels or other similar distinctive signs on products directly or on the packaging ;

e. Simple mixture of products even of different species, as far as one or many components of the mixture don't adhere to conditions fixed by this Supplementary Act to be considered as originating from the Member States ;

f. Simple assembly of parts in order to create a full product ;

g. husking, partial or total milling, polishing and glazing of cereals and rice;;
h. peeling, stoning or debarking of fruits and vegetables;
i. sharpening, simple crushing or simple cutting;
j. Slaughtering of animals ;
k. Salting, brining, drying or smoking meats, fishes, crustaceans, mollusks and shellfishes ;
l. Freezing meats, offal, fishes, crustaceans, mollusks, shellfishes, fruits, vegetables and vegetable crops ;
m. The combination of two or more operations mentioned from items a) to l) ;

2. All operations carried out on a product in one or many States shall be jointly considered to decide whether the processing or transformation the product underwent be regarded as insufficient under the first paragraph above..

ARTICLE 7: CONCEPT OF ORIGINATING INDUSTRIAL PRODUCTS

Are considered as originating industrial products, the products mentioned under articles 4.1.l and 5, other than products that are made by hand, with or without the help of tools, instruments or devices directly operated by the manufacturer.

ARTICLE 8: IDENTIFICATION OF ORIGINATING INDUSTRIAL PRODUCTS

When technically possible, originating industrial products or their packaging carry labels which help in identifying them.

ARTICLE 9: GOODS MANUFACTURED IN FREE ZONE OR UNDER ECONOMIC, SUSPENSE OR END USE PROCEDURE

Goods manufactured in free zone and those manufactured in the context of suspense or other end-use procedures, leading to the partial or total suspension or exemption from import duties on the goods cannot in any case be eligible for the status of community originating products and advantages thereof.

ARTICLE 10: PRINCIPLE OF TERRITORIALITY

1. The principle of territoriality requires that the production process of the originating product must take place without interruption in the Community and that the conditions set out in Articles 4, 5 and 6 above with regard to the grant of origin must be fulfilled without interruption in the Community customs territory.

2. When originating products that are exported from the community to another third country are returned, they should be regarded as being non-originating, unless satisfactorily proven to customs authorities:

a. That the returned products are the same as those that were exported and

b. That they have not been subjected to any operations beyond what is required when they were in that country or when being exported in order to ensure they remain in good condition.

ARTICLE 11: DIRECT TRANSPORT RULE

Preferential treatment is only granted to goods which are transported directly from one Member State to another.

However, products constituting one single consignment may be transported through other territories with, should the occasion arise, transshipment or temporary warehousing in such territories, provided that they remain under the surveillance of the customs authorities in the country of transit or storage and that they do not undergo other operations than the unloading or the reloading or any other operation intended to ensure their conservation in the state.

ARTICLE 12: UNIT OF QUALIFICATION

1. The unit to be considered in the implementation of this Supplementary Act is the product that was chosen as base unit to determine the classification based on the nomenclature of the ECOWAS Tariff and Statistical Nomenclature (TSN)

It follows that:

a. When a product which consist of a group or assembly of items is classified based on the ECOWAS TSN under a single heading, the whole forms the unit to be taken into consideration ;

b. When a shipment is made up of a certain number of identical products which are classified under the same subheading of the ECOWAS TSN, the provisions of this Supplementary Act apply to each of these products taken individually.

2. When, by the application of the general rule n°5 of the harmonized system, the packaging are classified with the products they contain, they should be regarded as a single item with the product for the purpose of determining the origin.

ARTICLE 13: INDIRECT MATERIALS

To ascertain whether a product is originating, it is not necessary to ascertain the origin of indirect materials used in the manufacturing, trials or inspection which are not physically incorporated into it, or materials used in the maintenance of buildings or functioning of equipment linked with the manufacturing of a product including.

a. Energy and combustibles ;
b. Installations and Equipment ;
c. Machines and Tools ;
d. Gloves, glasses, boots, clothes, equipment and security supplies;
e. Lubricants, greases, composition materials and other materials used in the manufacturing or to make equipment and buildings work;
f. Spare parts and materials used in maintaining equipment and buildings;
g. Goods that are not included and are not meant to be included in the composition of final product.

ARTICLE 14: ACCESSORIES, SPARE PARTS AND TOOLS

Accessories, spare parts and tools that are supplied with a material, a machine, a device or a vehicle that form part of the normal equipment and are included in the price or are not charged separately, are considered to form a whole with the material, the machine, the device or the vehicle in question.

ARTICLE 15: SETS

Sets, under the General Rule n° 3 of the Harmonized System, are considered as originating, provided that all the items involved in their composition are originating.

TITLE III: CERTIFICATION OF COMMUNITY ORIGIN

ARTICLE 16: PROOF OF COMMUNITY ORIGIN

1. The proof of community origin is established through :

    a. A certificate of community origin issued by an appropriate authority of the exporting Member State,

    b. The invoice declaration of community origin

The issuance conditions and procedures of the certificate of community origin as well as conditions relating to the issuance of invoice declaration of community origin are defined by Regulation of the Council of Ministers.

2. The proof of community origin is compulsory for fishing products mentioned under article 4, paragraph 1 (h) to (i) above.

ARTICLE 17: VALIDITY OF THE PROOF OF ORIGIN

A proof of community origin is valid up to twelve (12) months starting from the date it is issued in the exporting State and should be submitted to customs authorities of the importing State within the same period.

ARTICLE 18: KEEPING PROOFS OF ORIGIN AND SUPPORTING DOCUMENTS

The shipper asking for a certificate of community origin, the approved exporter establishing an invoice declaration, the supplier establishing a certificate of origin, the appropriate authorities issuing the Certificate of origin and the customs authorities of the exporting Member State, must all keep for at least a period of five (05) years copies issued of their proofs of origin and any other trade document to which the proof of origin is attached.

ARTICLE 19: EXEMPTION FROM THE PROOF OF COMMUNITY ORIGIN

1. The following are eligible as originating products, with no need to tender a proof of origin:

    a. Agricultural and livestock products as well as items made by hand, with or without tools, instruments or devices directly operated by the manufacturer.

    b. Products that are sent in small shipments from private individual to private individual or are contained in the travelers personal luggage, so far they are not imported for commercial purpose, provided that they are declared as conforming to this Supplementary Act and there is no doubt regarding the sincerity of such declaration. In the event of postal shipment, this declaration can be made on customs declaration or on a form attached to this document.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travelers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view. However, the total value of these products cannot exceed an amount imposed by the national regulation of each Member State.

ARTICLE 20: DISCREPENCIES AND FORMAL ERRORS

1- Minor discrepancies between the information written on the proof of origin and the information on the documents issued by customs authorities in order to fulfill the import formalities of the products, do not nullify *ipso facto* the validity of the proof of origin, if it can be ascertained that the document matches the product presented.

2- Formal errors such as typographical errors, on a proof of origin should not lead to the refusal of the document if these errors do not present elements that may raise doubt about the accuracy of the declarations on the said document.

TITLE IV: COOPERATION BETWEEN CUSTOMS ADMINISTRATIONS

ARTICLE 21: NOTIFICATION OF CUSTOMS ADMINISTRATIONS

1- To ensure a correct and uniform implementation of this Supplementary Act, Member States through their respective administrations and services, will help and assist each other mutually to verify the authenticity of proofs of origin and the accuracy of information provided on the said documents.

2- Through the ECOWAS Commission, Customs administrations of Member States shall mutually exchange the lists of approved exporters, addresses of appropriate authorities that issue certificates of origin as well as specimen of stamps used by appropriate authorities and customs administrations on the certificates of community origin.

ARTICLE 22: VERIFICATION OF PROOF OF COMMUNITY ORIGIN

1- The post-clearance verification of proofs of community origin is conducted through survey or at any moment the customs of the importing State have reasonable doubt concerning the authenticity of these documents, the originating status of the related products or conformity with other provisions of this Supplementary Act.

2- For the purpose of implementing the provisions under paragraph 1 above, customs authorities of the importing Member State will send the proofs of community origin back to customs authorities of the exporting Member State while mentioning as the case may be, reasons behind such an inquiry. In support of their post-clearance verification, they should provide all documents and information gathered which make them think the information on the proof of community origin is incorrect.

3- The verification is conducted by customs authorities of the exporting Member State. In this regard, they are authorized to request for all proofs and conduct all account verification of the exporter or any other necessary verification.

4- Customs authorities of the exporting Member State shall communicate within fifteen (15) days after receiving the request for verification, the results of the proof of origin verification. These results should clearly indicate whether the documents are genuine and whether the related products can be regarded as products originating from the exporting Member State and fulfill the other provisions of this Supplementary Act.

ARTICLE 23 : DISPUTE RESOLUTION

1. When dispute arises in the course of the verification mentioned under article 24 of this Supplementary Act, which cannot be settled among customs authorities of the importing Member State requesting for verification and the customs authorities of the exporting Member State who issued the contested proof of origin, one of the parties in the dispute can refer to the ECOWAS Commission through an official letter, registered mail or email.
2. The ECOWAS Commission shall determine the legitimacy of the contestation and take appropriate steps to deal with it and take immediate decision within ninety (90) days from the date of receipt of the complaint by the ECOWAS Commission, as soon as possible.
3. In the event of dissatisfaction with the ECOWAS Commission's Decision, the Member State can refer to the Community Court of Justice for final resolution.
4. However, the dispute of community origin will not pose an obstacle to benefiting from the advantages arising from the community origin, under reserve the constitution by the importer, a guarantee of the taxes inforce in the importing Member State.

ARTICLE 24: PENALTIES

The Member States shall impose penalties in accordance with article 56 of the ECOWAS customs code and with their national regulations on any person in the community that issues or get a document with incorrect data with the aim of introducing a product into the Community preferential tariff regime.

ARTICLE 25: AMENDMENT AND REVIEW

1. Any Member state, the Council of Ministers and the ECOWAS Commission can submit proposals for the amendment or revision of this Supplementary Act,
2. The proposals which do not emanate from the ECOWAS Commission must be submitted to the Commission. The Commission will inform Member States within thirty (30) days after receipt of the proposals. The Authority of Heads of States and Governments will consider the proposed amendments and revisions within three (3) months given to the Member States.

3- The amendments or revisions are adopted by the Authority of the Heads of States and Government conforming to the provisions of Article 9 of the ECOWAS Revised Treaty. It enters into force at the signature and publication in the official journal of the community.

TITRE IV: FINAL PROVISIONS

ARTICLE 26: TRANSITIONAL PROVISIONS

1. Products approved under the Protocol A/P1/1/03 relating to the definition of the concept of originating products of ECOWAS before the entry into force of this Supplementary Act will continue to benefit from the preferential tariff treatment even after the entry into force of this Act.

ARTICLE 27: ENTRY INTO FORCE AND PUBLICATION

This Supplementary Act A/SP.7/12/18 will enter into force at the signature by the Chairman of the Authority of Heads of State and Government of ECOWAS. This Supplementary Act A/SP.7/12/18 will be published by the ECOWAS Commission in the official journal of the Community within thirty (30) days of the date of the signature of the Chairman of the Authority. It will equally be published by each Member State in its official journal within thirty (30) days after the Commission has issued a notification.

IN WITNESS THEREOF, WE HEADS OF STATE AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS), SIGNED THIS SUPPLEMENTARY ACT.

DONE AT ABUJA, THIS .....DAY OF DECEMBER 2018

IN THREE (3) ORIGINAL COPIES IN FRENCH, ENGLISH AND PORTUGUESE LANGUAGES, ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC.

.....

H.E. PATRICK ATHANASE TALON
President of the Republic of Benin

.....

H.E. ROCH MARC CHRISTIAN KABORE
President of Burkina Faso

.....

H.E JORGE CARLOS DE ALMEIDA FONSECA
Prime Minister of Cape Verde

.....

H.E. ALASSANE OUATTARA
President of the Republic Côte d'Ivoire

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President of the Republic of Guinea

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H.E. JOSE MARIO VAZ
President of the Republic of Guinea Bissau

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H.E. GEORGE MANNEH WEAH
President of the Republic of Liberia

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H.E. IBRAHIM BOUBACAR KEITA
President of the Republic of Mali

.....

H.E. ISSOUFOU MAHAMADOU
President of the Republic of Niger

.....

H.E. MUHAMMADU BUHARI
President, Commander-in Chief of the Armed Forces of the Federal Republic of Nigeria

.....

H.E. MACKY SALL
President of the Republic of Senegal

.....

H.E. JULIUS MAADA BIO
President of the Republic of Sierra Leone

.....

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

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

54TH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22ND DECEMBER, 2018

SUPPLEMENTARY ACT A/SA.8/12/18 AMENDING ARTICLE 3 PARAGRAPH 1 (NEW) OF SUPPLEMENTARY PROTOCOL A/SP.2/6/06 RELATING TO THE COMMUNITY COURT OF JUSTICE

THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT,

MINDFUL of Articles 7, 8 and 9 of the Revised Treaty of the Economic Community of West African States establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of Supplementary Protocol A/SP.1/06/06, adopted on 14 June 2006 and amending the revised Treaty of the Economic Community of West African States;

MINDFUL of Supplementary Protocol A/P/.1/7/91 relating to the ECOWAS Court of Justice;

MINDFUL of Supplementary Protocol A/SP.2/06/06 amending the Protocol relating to the ECOWAS Court of Justice, signed in Accra on 19 January 2005;

MINDFUL of Decision A/DEC.2/1/18 adopting the ECOWAS Institutional Reform, of which the objective is to streamline operation related administrative costs and promote implementation of Community projects;

MINDFUL of the final statement of the 51st Ordinary Session of 04 June 2017 of ECOWAS Authority of Heads of States and Government adopting ECOWAS institutional reform which purpose is to allow the streamlining of the administrative costs related to operations and the strengthening of community projects implementation;

RECALLING that the restructuring of the Court was done to develop an organisation chart that will enable the Court to perform its duties at optimum level;

DESIROUS to provide the ECOWAS Court of Justice with functional structures, human resources suited to its needs and take all the necessary measures for its smooth operation;

CONSIDERING the opinion of the Community Parliament;

HEREBY AGREES AS FOLLOWS:

ARTICLE 1:

Article 3 Paragraph 1 (new) of Supplementary Protocol A/SP.2/6/06 shall be amended as follows:

The Court shall consist of five (5) independent judges selected from among people of high moral character, nationals of the Member States who possess the qualification required for appointment to judicial office at the Supreme Court or any similar ranking court, who are otherwise seasoned legal advisors of recognised competence in international law, particularly in the area of Community Law or Regional Integration Law.

Furthermore, candidates for bench appointment to the ECOWAS Court of Justice shall have accumulated no less than twenty years of professional experience.

ARTICLE 2:

Any former provision that is contrary to Article 1 of this Supplementary Act A/SA.8/12/18 is hereby abrogated.

ARTICLE 3:

This Supplementary Act A/SA.8/12/18 shall enter into force upon its signature by the Authority of Heads of State and Government.

ARTICLE 4:

The Supplementary Act A/SA.8/12/18 shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty days of its signature by the Authority of Heads of State and Government.

It shall also be published by each Member State in its National Gazette within thirty days of notification thereof by the Commission.

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

Done in ABUJA, this 22nd day of December 2018

IN ONE SINGLE ORIGINAL DOCUMENT IN ENGLISH, FRENCH, AND PORTUGUESE, ALL LANGUAGE TEXTS BEING EQUALLY AUTHENTIC.

.....

H.E. PATRICK ATHANASE TALON
President of the Republic of Benin

.....

H.E. ROCH MARC CHRISTIAN KABORE
President of Burkina Faso

.....

H.E JORGE CARLOS DE ALMEIDA FONSECA
Prime Minister of Cape Verde

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H.E. ALASSANE OUATTARA
President of the Republic Côte d'Ivoire

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H.E. ADAAMA BARROW
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H.E. NANA ADDO DANKWA AKUFO-ADDO
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H.E. ISSOUFOU MAHAMADOU
President of the Republic of Niger

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H.E. MUHAMMADU BUHARI
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. JULIUS MAADA BIO
President of the Republic of Sierra Leone

.....

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

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

54TH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22ND DECEMBER, 2018

SUPPLEMENTARY ACT A/SA.9/12/18 ON THE ABOLITION OF POST OF DEPUTY DIRECTOR-GENERAL OF THE INTERGOVERNMENTAL ACTION GROUP AGAINST MONEY LAUNDERING IN WEST AFRICA (GIABA)

THE AUTHORITY,

MINDFUL of Articles 7, 8 and 12 of the Revised Treaty of the Economic Community of West African States establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of Regulation C/REG.1/06/06 approving the organisational structure of the Commission of the Economic Community of West African States and stipulating that the Administrative Secretary and the Deputy Administrative Secretary should henceforth be referred to as Director General and Deputy Director General, respectively;

MINDFUL of Decision A/DEC.9/12/99 on the creation of the Intergovernmental Action Group against Money Laundering in West Africa (GIABA)

MINDFUL of the Final Communiqué of the 51st Session of the ECOWAS Authority of Heads of State and Government adopting the ECOWAS Institutional Reform of which the objective is to streamline administrative costs and promote the implementation of Community projects;

RECALLING that the purpose of restructuring GIABA is to provide the organisation with an organisation chart that will enable it perform its duties optimally;

CONSIDERING the opinion of the Community Parliament;

HEREBY AGREES AS FOLLOWS:

ARTICLE 1: ABOLITION OF POST OF DEPUTY DIRECTOR-GENERAL

The post of Deputy Director General of GIABA is hereby abolished.

ARTICLE 2: Any other provisions that are inconsistent with Article 1 of this Supplementary Act A/SA.9 /12/18 are hereby abrogated.

ARTICLE 3: ENTRY INTO FORCE

This Supplementary Act A/SA.9/12/18 shall enter into force upon its signature by the Authority of Heads of State and Government.

ARTICLE 4: PUBLICATION

The Supplementary Act A/SA.9 /12/18 shall be published by ECOWAS Commission in the Official Journal of the Community within thirty days of its signature by the Authority of Heads of State and Government.

It shall also be published by each Member State in its National Gazette within thirty days of notification thereof by the Commission.

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..... day of December 2018

IN ONE SINGLE ORIGINAL, IN ENGLISH, FRENCH, AND PORTUGUESE, ALL THREE TEXTS BEING EQUALLY AUTHENTIC

H.E. PATRICK ATHANASE TALON
President of the Republic of Benin

H.E. ROCH MARC CHRISTIAN KABORE
President of Burkina Faso

H.E JORGE CARLOS DE ALMEIDA FONSECA
Prime Minister of Cape Verde

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ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

54TH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT OF ECOWAS

Abuja, 22ND DECEMBER, 2018

SUPPLEMENTARY ACT A/SA.10/12/18 ABROGATING ARTICLE IX PARAGRAPH 4 OF PROTOCOL A/P.2/7/87 ON THE ESTABLISHMENT OF A WEST AFRICAN HEALTH ORGANISATION

THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT.

MINDFUL of Articles 7, 8 and 9 of the Revised Treaty of the Economic Community of West African States establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of Supplementary Protocol A/SP1/06/06, adopted on 14 June 2006 and amending the Treaty of the Economic Community of West African States;

MINDFUL of Supplementary Protocol A/P2/7/87 on the establishment of a West African Health Organisation;

MINDFUL of Decision A/DEC.2/1/18 adopting the ECOWAS Institutional Reform for the purpose of streamlining administrative costs related to operation and strengthening the implementation of Community projects;

MINDFUL of the final statement of the 51st Ordinary Session of 04 June 2017 of ECOWAS Authority of Heads of States and Government adopting ECOWAS institutional reform which purpose is to allow the streamlining of the administrative costs related to operations and the strengthening of community projects implementation;

CONVINCED of the need for the West African Health Organisation to have a new organisation chart to develop a more efficient system and reach its main objective of providing the highest level of healthcare service to the people of the sub region;

CONSIDERING the opinion of the Community Parliament;

HEREBY AGREES AS FOLLOWS:

ARTICLE 1:

Article IX of Paragraph 4 of Protocol A/P.2/7/87 which states: "The Director General shall be assisted by a Deputy Director-General appointed by the Commission on the Assembly's recommendation. He must hold a basic medical degree from the University and possess a postgraduate qualification with adequate and relevant experience." is hereby abrogated.

ARTICLE 2:

Any former provision contrary to Article 1 of this Supplementary Act A/SA.10/12/18 is hereby abrogated.

ARTICLE 3:

This Supplementary Act A/SA.10/12/18 shall enter into force on the day of its signature by the Authority of Heads of State and Government.

ARTICLE 4:

The Supplementary Act A/SA.10/12/18 shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty days of its signature by the Authority of Heads of State and Government.

It shall also be published by each Member State in its National Journal within thirty days of notification thereof by the Commission.

IN WITNESS WHEREOF,
WE, HEAD OF STATES AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES, HAVE SIGNED THIS SUPPLEMENTARY ACT

Done in Abuja, this 22nd day of December 2018

IN ONE SINGLE ORIGINAL COPY IN ENGLISH, FRENCH, AND PORTUGUESE, ALL THREE LANGUAGE TEXTS BEING EQUALLY AUTHENTIC

COMUNIDADE ECONOMICA DOS
ESTADOS DA AFRICA OCIDENTAL

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

H.E. PATRICE TALON
President of the Republic of Benin

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