



**SIXTIETH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND  
GOVERNMENT**

Abuja, 12 December 2021

**DECISION A/DEC. 1/12 /21 REDUCING THE MANAGEMENT CADRE OF THE ECOWAS  
COMMISSION TO SEVEN (7) COMMISSIONERS**

**THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT**

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

**MINDFUL** of Article 17 and 18 of the ECOWAS Revised Treaty as amended by Article 2 of Supplementary Protocol A/SP/06/06 on the Establishment and Composition of the Commission, as well as the appointment of Commissioners respectively;

**MINDFUL** of Decision A/DEC.16/01/06 transforming the Executive Secretariat into a Commission;

**MINDFUL** of Supplementary Act A/SP.14/02/12 on the Modalities of Allocation of the positions of the President, Vice President, other Commissioners of the Commission and other statutory Appointees of ECOWAS Institutions;

**RECALLING** Decision A/DEC.4/02/13 Expanding the Management Cadre of the ECOWAS Commission and Increasing the Number of the Commissioner Positions to Fifteen (15);

**CONSIDERING** that at the Extraordinary Meeting of the Authority of Heads of State and Government, held in Accra on 2<sup>nd</sup> February 2021, it adopted a seven (7) member Commission as the size of the Commission beginning March 2022;

**ACKNOWLEDGING** that the need to reduce the size of the Commission was necessitated by the heightened financial challenges faced by Member States and reforming the institutional structures of the Commission will reduce the financial burden on Member States;

**CONSIDERING** also that the Authority in reducing the size of the Commission took cognizance of the significance of Article 3 of the ECOWAS Revised Treaty which states the aims and objectives of ECOWAS and Article 22 of the said Treaty where the integration pillars are reflected in the Technical Commissions;

**AWARE** that the reduction in size of the Commission would also reduce the number of Departments requiring the merging and regrouping of areas and Departments which have affinity with one another;



**DESIRIOUS** of reducing the size of the Commission to generate savings and ensure efficient management of available resources;

**ON THE RECOMMENDATION** of the Extraordinary Session of the ECOWAS Council of Ministers on Institutional Reform held in Accra on 5<sup>th</sup> October 2021

**DECIDES:**

**Article 1**

1. The structure of the Commission shall be as follows:-

- a. Office of the President;
- b. Office of the Vice President;
- c. Department of Infrastructure, Energy and Digitalization;
- d. Department of Economic Affairs and Agriculture;
- e. Department of Internal Services;
- f. Department of Human Development and Social Affairs;
- g. Department of Political Affairs, Peace and Security;

2. The structure shall comprise of twenty - eight (28 ) Directorates, fourteen (14 ) Resident Representatives, three (3 ) Liaison Offices and nine (9 ) Agencies and Centres outside the Commission.

**Article 2**

1. This Decision A/DEC.1/12/21 shall enter into force upon its signature by the Chairman of the Authority.

E-MAIL

2. This Decision shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of signature. It shall equally be published by each Member State in its National Gazette within thirty (30) days after notification thereof by the Commission.

**DONE IN ABUJA THIS 12 DAY OF DECEMBER 2021**

**FOR THE AUTHORITY  
THE CHAIRMAN**

**H.E NANA ADDO DANKWA AKUFO – ADDO**



**SIXTIETH ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND  
GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES**

**Abuja, 12 December 2021**

**DECISION A/DEC. 2/12/21 EXTENDING TO JUNE 2022 THE TENURE OF THE  
STATUTORY APPOINTEES OF THE COMMISSION, GIABA AND WAHO**

**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 7 and 8 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 17 and 18 of the Revised ECOWAS Treaty as amended by Article 2 of Additional Protocol A/SP/06/06 on the Establishment and Composition of the Commission, as well as the Appointment of Commissioners,

**MINDFUL** of Decision A/DEC.16/01/06 transforming the Executive Secretariat into a Commission;

**MINDFUL** of A/S.A.14/02/12 on the modalities for the distribution of the posts of President, Vice-President, other Commissioners of the Commission and other persons appointed by law of the ECOWAS institutions;

**RECALLING** Decision A/DEC.4/02/13 increasing to fifteen the number of statutory officials of the ECOWAS Commission of the posts of Commissioners (15);

**CONSIDERING** that the mandate of the statutory officials of the ECOWAS Commission, GIABA and WAHO, is due to end in February 2022;

**CONVINCED** of the need to extend the mandate of Statutory Appointees to the ECOWAS Commission, GIABA and WAHO in order to finalize allocation of statutory positions;

**DESIRING** to extend the mandate of institutional Statutory Appointees reform



**DECIDES:**

**Article 1 Extension of the mandate**

1. The mandate of the following Statutory Appointees shall be extended:

- a. The President of the ECOWAS Commission;
- b. The Vice-President of the ECOWAS Commission;
- c. The Commissioners
- d. The Director General of GIABA;
- e. The Director General of WAHO;

2. The tenure of the above mentioned Statutory Appointees expiring on 28 February 2022 shall be extended until the end of June 2022.

**Article 2: Instruction of the President of the Council of Ministers**

The President of the Council of Ministers shall make all the necessary administrative and financial arrangements related to the period of extension of the term of office of the above-mentioned statutory officials to facilitate their implementation.

**Article 3: Entry into force and Publication**

- 1. This Decision A/DEC.2/12/2021 shall enter into force upon signature by the President of the Conference.
- 2. This Decision shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature. It shall also be published by each Member State in its Official Journal within thirty (30) days of notification thereof by the Commission.

**DONE IN ABUJA THIS 12 DAY OF DECEMBER 2021**

**THE CHAIRMAN**

**FOR THE AUTHORITY**

# COMISSÃO DA CEDEAO

ECOWAS COMMISSION



COMMISSION DE LA CEDEAO

Eighty- seventh Ordinary Session of the Council of Ministers

Abuja, 9-10 December 2021

## REGULATION C/REG.1/12/2021 APPROVING THE WORK PROGRAMME OF THE ECOWAS COMMISSION, FOR THE 2022 FINANCIAL YEAR

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

HAVING CONSIDERED the Work Programme of the ECOWAS Commission, its Agencies, Centres and Offices for the 2022 Financial Year as recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November- 2 December 2021.

UPON THE OPINION OF PARLIAMENT during its second ordinary session held in Abuja from 30 November to 18 December 2021.

### ENACTS

#### ARTICLE 1

The Work Programme attached hereto, is hereby approved, and shall be executed by the ECOWAS Commission, its Agencies, Centres and Offices during the 2022 Financial Year.

#### ARTICLE 2

This Regulation C/REG.1/12/21 shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021

H.E. Shirley Ayorkor BOTCHWEY

THE CHAIRPERSON  
FOR COUNCIL

C/REG.1/12/21

# COMISSÃO DA CEDEAO

ECOWAS COMMISSION



COMMISSION DE LA CEDEAO

Eighty-seventh Ordinary Session of the Council of Ministers

Abuja, 9-10 December 2021

## REGULATION C/REG.2/12/21 APPROVING THE WORK PROGRAMME OF THE ECOWAS PARLIAMENT FOR THE 2022 FINANCIAL YEAR

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

HAVING CONSIDERED the Work Programme of the ECOWAS Parliament for the 2022 Financial Year as recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November-2 December 2021,

UPON THE OPINION OF PARLIAMENT during its second ordinary session held in Abuja from 30 November to 18 December 2021.

ENACTS

### ARTICLE 1

The Work Programme attached hereto, is hereby approved, and shall be executed by the ECOWAS Parliament during the 2022 Financial Year.

### ARTICLE 2

This Regulation C/REG.2/12/21 shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021

H.E. Shirley Ayorkor BOTCHWEY

THE CHAIRPERSON  
FOR COUNCIL

C/REG.2/12/21

# COMISSÃO DA CEDEAO

ECOWAS COMMISSION



COMMISSION DE LA CEDEAO

Eighty- seventh Ordinary Session of the Council of Ministers

Abuja, 9-10 December 2021

## REGULATION C/REG.3/12/21 APPROVING THE WORK PROGRAMME OF THE COMMUNITY COURT OF JUSTICE FOR THE 2022 FINANCIAL YEAR

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

HAVING CONSIDERED the Work Programme of the Community Court of Justice for the 2022 Financial Year as recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November-2 December 2021.

UPON THE OPINION OF PARLIAMENT during its second ordinary session held in Abuja from 30 November to 18 December 2021.

ENACTS

### ARTICLE 1

The Work Programme attached hereto, is hereby approved, and shall be executed by the Community Court of Justice during the 2022 Financial Year.

### ARTICLE 2

This Regulation **C/REG.3/12/21** shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021

H.E. Shirley Ayorkor BOTCHWEY

THE CHAIRPERSON  
FOR COUNCIL

C/REG.3/12/21

# COMISSÃO DA CEDEAO

**ECOWAS COMMISSION**



**COMMISSION DE LA CEDEAO**

**Eighty-seventh Ordinary Session of the Council of Ministers**

**Abuja, 9-10 December 2021**

## **REGULATION C/REG.4/12/21 APPROVING THE WORK PROGRAMME OF THE WEST AFRICAN HEALTH ORGANISATION FOR THE 2022 FINANCIAL YEAR**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

**HAVING CONSIDERED** the Work Programme of the West African Health Organisation for the 2022 Financial Year as recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November-2 December 2021.

**UPON THE OPINION OF PARLIAMENT** during its second ordinary session held in Abuja from 30 November to 18 December 2021.

**ENACTS**

### **ARTICLE 1**

The Work Programme attached hereto, is hereby approved, and shall be executed by the West African Health Organisation during the 2022 Financial Year.

### **ARTICLE 2**

This Regulation **C/REG.4/12/21** shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**

.....  
**H.E. Shirley Ayorkor BOTCHWEY**

**THE CHAIRPERSON  
FOR COUNCIL**

**C/REG.4/12/21**

# COMISSÃO DA CEDEAO

ECOWAS COMMISSION



COMMISSION DE LA CEDEAO

Eighty- seventh Ordinary Session of the Council of Ministers

Abuja, 9-10 December 2021

## REGULATION C/REG.5/12/21 APPROVING THE WORK PROGRAMME OF THE INTERGOVERNMENTAL ACTION GROUP AGAINST MONEY LAUNDERING IN WEST AFRICA (GIABA) FOR THE 2022 FINANCIAL YEAR

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

HAVING CONSIDERED the Work Programme of the Intergovernmental Action Group against Money Laundering in West Africa (GIABA) for the 2022 Financial Year as recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November- 2 December 2021.

UPON THE OPINION OF PARLIAMENT during its second ordinary session held in Abuja from 30 November to 18 December 2021.

ENACTS

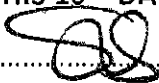
### ARTICLE 1

The Work Programme attached hereto, is hereby approved, and shall be executed by the Intergovernmental Action Group against Money Laundering in West Africa (GIABA) during the 2022 Financial Year.

### ARTICLE 2

This Regulation C/REG.5/12/21 shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021

  
.....  
H.E. Shirley Ayorkor BOTCHWEY

THE CHAIRPERSON  
FOR COUNCIL

C/REG.5/12/21



**Eighty-seventh Ordinary Session of the Council of Ministers**

**Abuja, 9-10 December 2021**

**REGULATION C/REG.6/01/21 APPROVING THE WORK PROGRAMME OF THE ECOWAS  
GENDER DEVELOPMENT CENTRE FOR THE 2021 FINANCIAL YEAR**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

**HAVING CONSIDERED** the Work Programme of the ECOWAS Gender Development Centre for the 2022 Financial Year as recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November-2 December 2021.

**UPON THE OPINION OF PARLIAMENT** during its second ordinary session held in Abuja from 30 November to 18 December 2021.

**ENACTS**

**ARTICLE 1**

The Work Programme attached hereto, is hereby approved, and shall be executed by the ECOWAS Gender Development Centre during the 2022 Financial Year.

**ARTICLE 2**

This Regulation **C/REG.6/12/21** shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**

**H.E. Shirley Ayorkor BOTCHWEY**

**THE CHAIRPERSON  
FOR COUNCIL**

**C/REG.6/12/21**

# COMISSÃO DA CEDEAO

**ECOWAS COMMISSION**



**COMMISSION DE LA CEDEAO**

**Eighty- seventh Ordinary Session of the Council of Ministers**

**Abuja, 9-10 December 2021**

## **REGULATION C/REG.7/12/21 APPROVING THE WORK PROGRAMME OF THE WATER RESOURCES INTEGRATED MANAGEMENT CENTRE FOR THE 2022 FINANCIAL YEAR**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

**HAVING CONSIDERED** the Work Programme of the Water Resources Coordination Centre for the 2022 Financial Year recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November-2 December, 2021.

**UPON THE OPINION OF PARLIAMENT** during its second ordinary session held in Abuja from 30 November to 18 December 2021.

### **ENACTS**

#### **ARTICLE 1**

The Work Programme attached hereto, is hereby approved, and shall be executed by the Water Resources Integrated Management Centre during the 2022 Financial Year.

#### **ARTICLE 2**

This Regulation **C/REG.7/12/21** shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**

.....  
**H.E. Shirley Ayorkor BOTCHWEY**

**THE CHAIRPERSON  
FOR COUNCIL**

**C/REG.7/12/21**

# COMISSÃO DA CEDEAO

**ECOWAS COMMISSION**



**COMMISSION DE LA CEDEAO**

**Eighty-seventh Ordinary Session of the Council of Ministers**

**Abuja, 9 -10 December 2021**

## **REGULATION C/REG.8/12/21 APPROVING THE WORK PROGRAMME OF THE ECOWAS OFFICE IN BRUSSELS FOR THE 2022 FINANCIAL YEAR**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

**HAVING CONSIDERED** the Work Programme of the ECOWAS Office in Brussels for the 2022 Financial Year as recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November- 2 December 2021.

**UPON THE OPINION OF PARLIAMENT** during its second ordinary session held in Abuja from 30 November to 18 December 2021.

### **ENACTS**

#### **ARTICLE 1**

The Work Programme attached hereto, is hereby approved, and shall be executed by the ECOWAS Office in Brussels during the 2022 Financial Year.

#### **ARTICLE 2**

This Regulation **C/REG.8/12/21** shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**

.....  
**H.E. Shirley Ayorkor BOTCHWEY**

**THE CHAIRPERSON  
FOR COUNCIL**

**C/REG.8/12/21**



**Eighty-seventh Ordinary Session of the Council of Ministers**

**Abuja, 9-10 December 2021**

**REGULATION C/REG.9/12/21 APPROVING THE WORK PROGRAMME OF THE ECOWAS  
YOUTH AND SPORTS DEVELOPMENT CENTRE FOR THE 2022 FINANCIAL YEAR**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

**HAVING CONSIDERED** the Work Programme of the Youth and Sports Development Centre for the 2022 financial year as recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November-2 December 2021.

**UPON THE OPINION OF PARLIAMENT** during its second ordinary session held in Abuja from 30 November to 18 December 2021.

**ENACTS**

**ARTICLE 1**

The Work Programme attached hereto, is hereby approved, and shall be executed by the Youth and Sports Development Centre during the 2022 Financial Year.

**ARTICLE 2**

This Regulation **C/REG.9/12/21** shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**

  
.....  
**H.E. Shirley Ayorkor BOTCHWEY**

**THE CHAIRPERSON  
FOR COUNCIL**

**C/REG.9/12/21**

# COMISSÃO DA CEDEAO

**ECOWAS COMMISSION**



**COMMISSION DE LA CEDEAO**

**Eighty-seventh Ordinary Session of the Council of Ministers**

**Abuja, 9-10 December 2021**

## **REGULATION C/REG.10/12/21 APPROVING THE WORK PROGRAMME OF THE OFFICE OF THE AUDITOR GENERAL OF THE ECOWAS INSTITUTIONS FOR THE 2022 FINANCIAL YEAR**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers, and defining its composition and functions.

**HAVING CONSIDERED** the Work Programme of the Office of the Auditor General of the ECOWAS Institutions for the 2022 financial year as recommended by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November- 2 December 2021.

**UPON THE OPINION OF PARLIAMENT** during its second ordinary session held in Abuja from 30 November to 18 December 2021.

**ENACTS**

### **ARTICLE 1**

The Work Programme attached hereto, is hereby approved, and shall be executed by the Office of the Auditor General of the ECOWAS Institutions for the 2022 financial year.

### **ARTICLE 2**

This Regulation **C/REG.10/12/21** shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days upon signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette thirty (30) days after notification by the Commission.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**

  
.....  
**H.E. Shirley Ayorkor BOTCHWEY**

**THE CHAIRPERSON  
FOR COUNCIL**

**C/REG.10/12/21**

# COMISSÃO DA CEDEAO

**ECOWAS COMMISSION**



**COMMISSION DE LA CEDEAO**

**Eighty-seventh Ordinary Session of the Council of Ministers**

**Abuja, 9-10 December 2021**

**REGULATION C/REG.11/12/21 APPROVING THE BUDGET OF THE COMMUNITY INSTITUTIONS, STATUTORY OBLIGATIONS, SPECIAL PROGRAMMES, INTERVENTIONS IN MEMBER STATES AND IN THE PEACE AND SECURITY SECTOR FOR THE 2022 FINANCIAL YEAR**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Articles 2 and 6 of the said Treaty and its amendments on the establishment of ECOWAS and its Institutions;

**MINDFUL** of Article 72 of the Treaty relating to the Community Levy;

**MINDFUL** of Article 69 of the Treaty which relates to the budget of the Community Institutions;

**MINDFUL** of the Regulation C/REG.5/05/09 of May 27, 2009, adopting the Financial Regulations of the Institutions of the Economic Community of West African States (ECOWAS);

**MINDFUL**, of Articles 11 and 12 of the Financial Regulations of the Community referred to in the preceding paragraph, which provide for the preparation of a consolidated budget for the Community and for the structure and presentation of the Budget.

**HAVING CONSIDERED** the budget estimates of ECOWAS Institutions as well as other ECOWAS Interventions and Obligations as proposed by the thirtieth meeting of the Administration and Finance Committee, which was held in Abuja, from 25 November-2 December 2021.

**UPON THE OPINION OF PARLIAMENT** during its second ordinary session held in Abuja from 30 November to 18 December 2021.

**C/REG.11/12/21**

## ENACTS

### ARTICLE 1

The budget estimates of the ECOWAS Institutions/Agencies as well as that for other ECOWAS, special programmes, Interventions and Obligations for the 2022 financial year considered at the thirtieth meeting of the Administration and Finance Committee balanced in income and expenditure at the sum of Three hundred and ninety-three million, six hundred and twelve thousand, four hundred Units of Account (UA: **393,612.400**) is hereby approved.

### ARTICLE 2

1. Approved Budget Income for 2022 is as follows:

i) Community Levy from Member States	-	UA: 152,162.209
ii) Year-End Bank Balance	-	UA: 66,188.824
iii) Arrears of Community Levy	-	UA: 58,389.968
iv) <i>Arrears of Contributions</i>	-	UA: 0
v) Other Income	-	UA: 798,130
vi) Income from External Funding	-	UA: 116,073.269
<b><u>Total:</u></b>	<b>-</b>	<b>UA: 393,612.400</b>

2. Approved Budget Expenditure for 2022 is allocated as follows:

i) Community Institutions	-	UA: 321,150.319
ii) Statutory Obligations	-	UA: 11,711.966
iii) Special Programmes and Interventions in Member States	-	UA: 30,436.264
iv) Peace and Security	-	UA: 30,313.851
<b><u>Total:</u></b>	<b>-</b>	<b><u>UA: 393,612.400</u></b>

### **ARTICLE 3**

The Approved 2022 Budget estimates for ECOWAS Institutions is as follows:

Commission	-	UA: 206,669,465
WAHO	-	UA: 59,744.474
GIABA	-	UA 10,634.021
Parliament	-	UA 21,005.052
Court of Justice	-	UA 16,287.335
Office of the Auditor General	-	UA 6,809.972

**Total:** **UA 321,150,319**

### **ARTICLE 4**

This Regulation **C/REG.11/12/21** shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall equally be published in the Official Gazette of each Member State within thirty (30) days upon notification by the Commission.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



.....  
**H.E. Shirley Ayorkor BOTCHWEY**

**THE CHAIRPERSON  
FOR COUNCIL**



**EIGHTY SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS OF THE ECONOMIC  
COMMUNITY OF WEST AFRICAN STATES**

Abuja, 9 - 10 December 2021

**REGULATION C/REG. 12 /12/21 ADOPTING NEW MODALITY OF PAYMENT OF SUBSISTENCE  
ALLOWANCE TO MINISTERS, PARLIAMENTARIANS AND EXPERTS OF TECHNICAL  
COMMITTEES DURING OFFICIAL MEETINGS UNDERTAKEN ON BEHALF OF THE COMMUNITY.**

**THE COUNCIL OF MINISTERS**

**MINDFUL** of Articles 10, 11 and 12 of the Revised ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Regulation C/REG. 15/01/05 relating to the revision of the rates of daily subsistence allowance thereafter referred as Per Diem for staff of ECOWAS Institutions and for other representatives on official mission on behalf of the Community.

**NOTING** that in the running of the Institutions, the Regulation C/ REG.2/06/07 has adopted the daily rates of subsistence allowance referred as Per Diem to be paid to the Ministers, Parliamentarians, Staff of ECOWAs Institutions, and Experts of Technical Committees for official missions on behalf of the Community.

**ALSO NOTING** that, the above-mentioned missions represent a significant cost for the Community Institutions which should be reduce, in this regard, the Community, in the framework of the institutional reform conducted, took measures for the reduction of the costs of missions by fixing the subsistence allowance per night.

**CONVINCED** that the change in the modalities of the payment will effectively reduce the administrative costs of the missions.

**DETERMINE** to fix the subsistence allowance of the missions per night.

**ON THE RECOMMENDATION** of the Administration and Finance Committee, held in Abuja from 25th November to 2nd December 2021

**UPON THE OPINION OF PARLIAMENT** at its 2<sup>nd</sup> Ordinary Session held at Abuja from 30<sup>th</sup> November to 18<sup>th</sup> December 2021

## ENACTS

### Article 1: Modality: Payment per night of Subsistence Allowance

The subsistence allowance is paid per night of each mission to Ministers, AFC Member State Experts, and other representatives on official Mission on behalf of the Institutions of the Community.

### Article 2: The rates of Subsistence Allowance

The rates of subsistence allowance remained as follow:

#### RATE PER NIGHT OF SUBSISTENCE ALLOWANCE:

Beneficiaries/ Zones	West Africa Latin America (US\$)	Other Parts s of Africa and Middle East (US\$)	Japan South Korea Asia (US\$)	Europe North America (US\$)
Ministers Parliamentarians Heads of Institutions (including organising countries)	374	410	701	593
Other Statutory Appointees	340	380	650	551
Directors Experts of technical Committees (including organising countries)	314	351	601	508
Professional Staff Consultants	262	293	500	423
G category staff	223	249	425	360
M category staff	146	205	360	306

### **Article 3: Abrogation**

This regulation shall abrogate and supersedes the previous Regulation C/ REG.2/06/07 fixing the subsistence allowance per day to be paid to ministers, parliamentarians, staff of ECOWAS institutions and experts of technical committees for community name;

### **Article 4: Signature and publication**

This Regulation shall upon signature by the Chairman of the Council of Minister enter into force. It shall be published by the ECOWAS Commission in the official Journal of the Community within thirty (30) days of its signing by the chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette within 30 days of its notification thereof by the Commission.

**DONE AT ABUJA THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



**H.E SHIRLEY AYORKOR BOTCHWEY**

**CHAIRPERSON**

**FOR COUNCIL**



## **EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

Abuja, 10 December 2021

### **REGULATION C/REG. 13/12//21 RELATING TO THE MODALITIES FOR THE FUNCTIONING OF THE ECOWAS COMMUNITY TRANSIT GUARANTEE MECHANISM**

#### **THE COUNCIL OF MINISTERS,**

**CONSIDERING** Articles 10, 11 and 12 of the ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

**CONSIDERING** the World Trade Organization (WTO) Agreement on Trade Facilitation, entered into force on 22 February 2017;

**CONSCIOUS** that a good guarantee system accelerates transit operation and contributes to securing revenue for transit countries;

**CONSCIOUS** that guarantees are financial products with varying cost depending on the level of risk among others;

**DETERMINED** to establish an affordable Community transit guarantee mechanism in ECOWAS member states based on international standards and best practices;

**MINDFUL OF** the Supplementary Act A/SA.2/12/17 of December 16, 2017 adopting the Customs Code of ECOWAS, especially Articles 178, 179, 180, 181, 182, 196, 197, 198, 199 and 206 thereof;

**MINDFUL** of the principle of freedom of transit enshrined in Article 45 of the Revised ECOWAS Treaty and Article 11 of the WTO Trade facilitation Agreement;

**TAKING INTO ACCOUNT** the World Customs Organization (WCO) Guidelines on Transit;

**TAKING INTO CONSIDERATION** articles 65, 66, 67, 68, 69 and 70 of the Supplementary Act A/SA.2/12/21 on ECOWAS Community Transit;

**FOLLOWING** validation by the regional meeting of experts held on 26-28 April 2021 in Abidjan;

**FOLLOWING APPROVAL** by the meeting of ECOWAS Finance Ministers held at Accra, the 12<sup>th</sup> November 2021;

**UPON THE OPINION of the ECOWAS Parliament** at its Second Ordinary Session held from 30<sup>th</sup> November to 18<sup>th</sup> December 2021;

## **ADOPTS**

### **CHAPTER I: PURPOSE, SCOPE AND DEFINITIONS**

#### **Article 1: Purpose**

This Regulation:

- a. amplifies the provisions of articles 180 and 206 of the ECOWAS Customs code; and
- b. defines the modalities for the functioning of the ECOWAS Community transit guarantee mechanism and establishes the criteria and procedure for the selection of a Community guarantor or guarantors as the case may be as required under the provisions of the Supplementary Act xxxxxxxx on ECOWAS community transit.

#### **Article 2: Definitions**

For the purposes of this Regulation, the following definitions shall apply:

**Commission** means the Commission of the Economic Community of West African States whose creation is reaffirmed by Article 2 of the Revised Treaty signed at Cotonou on July 23, 1993.

**Discharge of the transit procedure** means that the transit operation has been ended correctly on the basis of a comparison of the data available at the Office of destination and that available at the Office of departure.

**ECOWAS/Community** means the Economic Community of West African States, whose creation is reaffirmed in Article 2 of the Revised Treaty signed in Cotonou on July 24<sup>th</sup> 1993.

**ECOWAS Treaty** means the revised ECOWAS Treaty signed at Cotonou on July 24 1993 as subsequently amended.

**ECOWAS Customs code** means the Customs Code of the Community adopted by Supplementary Act A/SA.2/12/17 on 16<sup>th</sup> December 2017.

**Comprehensive guarantee** means Customs guarantee which covers more than one transit operation by the same guarantor.

**Customs guarantee** means an undertaking which ensures to the satisfaction of the Customs that obligations towards the Customs will be fulfilled.

**Guarantor** means a natural or legal person who guarantees to pay the Customs debt of the economic operator in the event he or she fails to fulfil his/her obligations to Customs.

**Holder of transit procedure** means a natural or legal person on whose behalf the transit declaration is made, or a natural or legal person to whom the rights and obligations in respect of transit procedure have been transferred.

**Individual guarantee** means a Customs guarantee which covers only one transit transaction

**Member State** means a signatory State to the ECOWAS Treaty.

**Office of departure** means any Customs office at which a Customs transit operation commences.

**Office of destination** means any Customs office at which a Customs transit operation is terminated.

**Office of entry** means any office en route where transit goods enter the Customs territory of a member State.

**Office of exit** means any office en route where transit goods leave the Customs territory of a member state.

**Office of transit/Office en route** means any Customs office located on the route of Customs transit operations.

**SIGMAT** is a French acronym for the Community transit management system which translates as the interconnected system for the management of goods in transit

**Transit** means the customs procedure under which goods are transported under Customs control from one Customs office to another.

**Transit operation** means movement of goods transported under the transit procedure from the customs office of departure to the customs office of destination.

**Transit declaration** means the act whereby a person indicates in the prescribed form and manner a wish to place goods under the transit procedure.

**Customs territory of the Community** means the customs territories of Member States, including their territorial waters, internal waters and airspace, as defined by the Community Customs Code (Article 3), adopted as follows Supplementary Act A/SA.2/12/17 of December 16, 2017;

**MRN** means the movement reference number (MRN), which is a unique registration number, given by the electronic system to the transit declaration which accompanies the goods from the Office of departure to the Office of destination.

## **CHAPTER II: GENERAL PRINCIPLES OF GUARANTEE MECHANISM**

### **Article 3: Provision of transit guarantee**

- a. The provision of a guarantee to cover the duties and taxes suspended during a transit operation is a fundamental element of the community transit procedure.
- b. A well-designed guarantee system therefore, is a necessary prerequisite for an efficient transit procedure.
- c. The obligation to provide a guarantee is incumbent on the holder of the transit procedure.

### **Article 4: community guarantee**

- a. Unless otherwise provided by Customs legislation, Community guarantee is a Customs guarantee applicable within the Customs territory of the Community, in accordance with Article 206 of the ECOWAS Customs code and which is legally binding pursuant to any Community agreement between the member States.
- b. Each guarantee provided by a Community guarantor shall be valid for a single transit operation commencing from the office of departure and ends at the office of destination.
- c. The Community transit guarantee shall be an undertaking, in the form set out in annexes A and B of this Regulation, furnished by a Community guarantor in accordance with article 180(1b) of the ECOWAS Customs code.

### **Article 5: Types of guarantee**

- a. Notwithstanding the provisions of Article 4(b) which covers individual guarantee, the Community may use comprehensive guarantees which shall cover several transit operations carried out within a period not exceeding one year.
- b. The use of the comprehensive guarantee is a simplification of the standard rule and therefore subject to an authorization.

## **CHAPTER III: FACILITATION MEASURES LINKED TO THE GUARANTEE**

### **Article 6: Reduction of the guarantee**

Customs administrations may grant the benefit of the reduction of the guarantee as defined in the ECOWAS customs code to authorized operators.

### **Article 7: Conditions for reduction of guarantee**

The entities referred to in article x above may request from the customs administration of the country of departure, a reduction in the guarantee when they cumulatively justify:

- a. a healthy financial situation;

- b. sufficient experience in transit;
- c. compliance with legal and safety requirements;
- d. proven cooperation with customs administrations

#### **Article 8: Waiver of guarantee**

The following are exempted from the Community guarantee:

- a. authorized economic operators;
- b. relief and humanitarian goods;
- c. goods imported by persons referred to in article 178 paragraph 5 of the ECOWAS Customs Code.

#### **Article 9: Information on guarantee reference number (GRN)**

In case of waiver of guarantee, customs administrations may use a "fictitious" reference in order to meet the mandatory requirement of the GRN.

#### **Article 10: Temporary withdrawal of waiver**

Customs administrations may temporarily suspend the guarantee waiver or reduction of the guarantee to the entities provided for in article 8 above when they violate criminal or civil law or when pending or unresolved legal proceedings involving those operators preclude direct involvement with Customs administrations.

### **CHAPTER IV COMMUNITY GUARANTOR**

#### **Article 11: Selection of Community guarantor(s)**

The Commission, in collaboration with the Customs administrations of member states, shall select the Community guarantor(s) based on applications received from potential guarantors and the full fulfillment of all the requirements of Articles 14 and 15 of this regulation.

#### **Article 12: Agreement with guarantor**

Following the selection of the community guarantor(s):

- a. A written agreement, by which the selected community guarantor (s) agree to full compliance with all the requirements of a community guarantor, shall be established between the community guarantor(s) and the ECOWAS Commission.
- b. The agreement referred to in paragraph (a) above, shall be in the three (3) official languages of the Community.
- c. A certified copy of the agreement shall be notified to member states.

### **Article 13: Duration of guarantor's approval**

The agreement referred to in article 7 above shall be valid for a period of three (3) years and renewable upon continued satisfactory fulfillment of the requirements and selection criteria of the guarantor.

### **Article 14: Requirements of a Community guarantor**

- a. In accordance with article 180 of the ECOWAS Customs code, the Community guarantor shall be a third person established in the customs territory of the Community or approved by the Community.
- b. The Community guarantor shall be a financial institution or an entity with sufficient financial base and approved by the Community.
- c. A guaranteeing association or non-financial institution shall be backed by a reputable bank approved by the Community.
- d. The community guarantor and the holder of the procedure shall not be the same entity.
- e. A community guarantor must have an address for service in each country for which his guarantee is valid. This ensures that written communications to and legal proceedings involving a guarantor can be verifiably delivered in any country in which a (customs) debt may arise in connection with goods under the transit procedure.
- f. In the absence of an address for service referred to in paragraph "e" above, the guarantor shall appoint agents in the member states.
- g. The guarantor shall undertake not to change his addresses for service without prior information to the ECOWAS Commission.
- h. The potential guarantor should not have engaged in any serious or repeated offences against Customs or tax legislation. Whereas the term "serious" applies to criminal law infringements this should not preclude the possibility of regarding the commission of administrative and civil irregularities as also being "serious" in accordance with national practice.

Similarly, the interpretation of the term "repeated" should be related to the number of offences that have been committed in a time period. It is proposed that three or more offences committed within a period of five years would be regarded as "repeated".

- i. Guarantors must be deemed highly reliable and can demonstrate sufficient collateral/assets to provide a high degree of confidence that any liability arising as a result of a failure to complete a transit movement that they have guaranteed will be honored and paid in full.

#### **Article 15: Selection criteria**

- a. In assessing a guarantor, it is important to include confirmation of financial backing arrangements with a reputable bank approved by the Community put in place by the guarantor (where the guarantor is not a financial institution) to limit their liabilities for transit guarantees to reasonable levels taking into account the liquidity of the guarantor.
- b. A community guarantor shall demonstrate sufficient organizational capabilities through the existence of corporate strategy, leadership, structure, processes and human resource capacity to inspire confidence in its ability to discharge the responsibilities under the Community transit procedure.
- c. As part of the approval process, the guarantor must show proof of sound financial standing enabling the guarantor to fulfil its obligations under this Regulation.
- d. In the assessment of the financial solvency of a guarantor, the Community shall take into account the following elements to evaluate the sufficient financial standing for the purpose of providing transit guarantee for Community transit procedure:
  - i. Net working capital (expressing the capacity to finance short-term needs),
  - ii. Creation of available resources (expressing the capacity to finance long term needs),
  - iii. Own Capital,
  - iv. Easy convertible assets,
  - v. Fixed assets
  - vi. Total balance sheet
  - vii. Current liabilities
  - viii. Liquidity ratio
  - ix. Solvency ratio
  - x. Probability of default (stability of the company);
  - xi. Equity ratio
  - xii. Return on Equity Ratio and Return on Investment Ratio (ability to make value with the capital and the investment you make with your activities);
  - xiii. Other relevant elements.

- e. The assessment of financial solvency shall be based on the certified audited accounts of the guarantor covering the three (3) previous years

#### **Article 16: Assessment of financial solvency of subsidiary**

- a. When judging the proven financial solvency of a subsidiary, it should be taken into account that a subsidiary company may operate under a guarantee from the parent company and the customs authorities could look into the accounts of that parent company providing support to ensure it has the facilities to do so.
- b. It is to be noted that letters of comfort provided by parent companies are often not legally binding contractual agreements and therefore do not constitute a legally enforceable guarantee.
- c. Where the applicant is dependent on the financial support of a parent (or other group) company to meet the proven financial solvency criterion the Community shall, where appropriate, ensure the support is provided in a legally binding, contractual agreement. To constitute a legally binding, contractual agreement it must contain an undertaking to irrevocably and unconditionally pay the liabilities of the subsidiary. Once signed, it has to be the legal responsibility of the signatory to pay any customs debts that are not paid by the applicant.

#### **Article 17: Revocation of guarantor's approval**

- a. The ECOWAS Commission may, on its own initiative, revoke the guarantor's authorization when the latter is no longer able to fulfill the conditions for its authorization in accordance with Articles 9 and 10 of this Regulation.
- b. The customs administration of any member state may, on the basis of a reasoned report, send a request to the ECOWAS Commission to request the revocation of the guarantor's approval.

#### **Article 18: Revocation of the undertaking**

- a. The customs office of departure may revoke the approval of the guarantor's undertaking in the event of non-compliance with the provisions of Article 203 (1.b) of the Community Customs Code.
- b. Where the customs office of departure revokes the undertaking of a guarantor, it shall notify the revocation to the guarantor and the holder of the procedure. The revocation shall take effect on the sixteenth (16<sup>th</sup>) day following the date on which the decision on the revocation is received or is deemed to have been received by the guarantor.

#### **Article 19: Termination of the undertaking**

- a. Provided that the customs administration didn't require that the form of guarantee chosen should be maintained for a specific period a guarantor may terminate his

undertaking at any time. The guarantor shall notify the termination to the customs office of departure.

b. The termination shall not affect goods which, at the moment where the termination takes effect, have already been placed and still are under a community transit procedure by virtue of the terminated undertaking.

c. The termination of the undertaking by the guarantor shall take effect on the 16th day following the date on which the termination is notified by the guarantor to the customs office of departure.

#### **Article 20: Steps after revocation and termination of undertaking**

a. When the guarantor's undertaking is revoked or terminated, the customs office of departure shall retain the guarantor's undertaking for at least one year except where the (customs) debt is extinguished or can no longer arise or the guarantor has been notified of the recovery of the (customs) debt or the discharge of the procedure.

b. The customs office of departure shall introduce into the electronic system information of any revocation of a guarantee or termination of an undertaking and the date when it becomes effective.

### **CHAPTER V OPERATION OF COMMUNITY TRANSIT GUARANTEE**

#### **Article 21: Calculation of the amount of the guarantee**

a. The amount of a guarantee shall be calculated in such a way that it covers the full amount of the (customs) debt liable to be incurred.

b. In general, the calculation is to be made on the basis of the highest rates applicable to such goods in the country of departure. The calculation is to include all the customs duties and other charges, such as, excise duties and value added tax that are applicable to those goods at import.

c. When setting the guarantee amount, the following shall not be taken into account:

- i. any potentially chargeable penalties;
- ii. any interest for delayed payment;
- iii. other concerns that would increase the guarantee amount or hinder transit operations unnecessarily.

d. For the purpose of calculating the duties and taxes, the goods concerned are to be classified on the basis of the ECOWAS Common External Tariff (CET).

e. Without prejudice to the provisions of paragraph "b" above, where the transit operation traverses the customs territory of more than one member state, the calculation of the guarantee amount shall take into account the highest rate of internal taxes relating to importation applicable in the intervening member states.

## **Article 22: Lodgment of guarantee**

- a. The guarantor shall undertake in writing to pay the amount of (customs) debt.
- b. An individual guarantee provided in the form of an undertaking shall be given using the form set out in Annex A to this regulation.
- c. A comprehensive guarantee provided in the form of an undertaking shall be given using the form set out in Annex B to this regulation.
- d. Where an individual guarantee is provided in the form of an undertaking by a guarantor, the proof of that undertaking shall be kept by the customs office of departure for the period of validity of the guarantee.
- e. The liability of the guarantor is based on the acceptance of this undertaking by the customs office of departure. The undertakings given by a guarantor for the purpose of a guarantee are lodged at the customs office of departure and approved.
- f. Following the approval of the undertaking, the customs office of departure shall assign a Guarantee Reference Number which shall be on the Transit declaration.
- g. To accept the undertaking, the Customs office departure shall check if all parts of guarantors undertaking are completed correctly, including the signatures of the guarantor. For this purpose the guarantor shall provide to the customs authority a list with the specimens of signatures of competent persons.
- h. The guarantor's undertaking shall be electronically attached to the transit declaration in the transit management system (SIGMAT).

## **Article 23: Formalities at the office of departure**

The customs office of departure shall check that:

- a. the guarantee details on the transit declaration match the original guarantee documents presented;
- b. the amount of the guarantee is sufficient;
- c. the guarantee is valid in all member states involved in the transit operation;
- d. the guarantee is in the name of the holder of the procedure named on the transit declaration;
- e. the guarantee has not expired;
- f. the validity period of one year from the date of issuance has not expired;

## **Article 24: Lack of adequate guarantee information on declaration**

- a. In cases where no information about a guarantee is given on the transit declaration, the declaration shall not be accepted.

- b. In cases where the amount of guarantee turns out to be insufficient, the customs office of departure shall not release the goods for transit unless a guarantee is furnished that covers the full amount of the (customs) debt liable to be incurred.

#### **Article 25: Liability**

- a. The liability of the guarantor is effective from the date the customs office of departure releases the goods for a transit operation covered by the guarantee.
- b. The liability of the guarantor is limited to the maximum amount shown on the guarantee document.
- c. Where the Community transit procedure has not been discharged, the customs administration of the country of departure shall, within nine (9) months from the presentation of the goods at the office of destination, notify the guarantor that the procedure has not been discharged.
- d. Where the procedure is still open after that nine-month period, the customs authorities of the country of departure within three years from the date of acceptance of the transit declaration, notify the guarantor that he is required to pay the (customs) debt in accordance with article 176 of the ECOWAS Customs code.
- e. The notification shall state the MRN and date of the transit declaration, the name of the customs office of departure, the name of the holder of the procedure and the amount involved.
- f. The guarantor shall be released from his obligations if either of those notifications have not been sent to him before the expiry of the time limit. However, if either of those notifications has been sent, the guarantor shall be informed of the recovery of the debt or the discharge of the procedure.

#### **Article 26: Guarantor's liability and release**

The joint and several liability of a guarantor for any debts incurred by his client, the holder of the procedure, continues for as long as there remains a possibility of such debts still becoming due, to the extent that:

- a. the holder of the procedure is in fact the debtor in respect of a debt incurred in the course of a transit operation covered by a guarantee provided by the guarantor;
- b. the debt has not yet been extinguished, e.g. by being paid, or it can still arise;
- c. the amount of the debt due does not exceed the maximum amount guaranteed by the guarantor;
- d. the guarantor has not been released from his obligations because the competent authority failed to send the notification within the prescribed period.

#### **Article 27: Notification of the guarantor**

- a. If the transit operation has not been discharged, the guarantor is to be notified of the non-discharge as follows:
  - i. By a letter from the Customs administration of the office of departure within 9 months from the date on which the goods should have been presented at the office of destination;  
and,
  - ii. by the Customs administration responsible for recovery within three (3) years of the date of acceptance of the transit declaration, that he is or may still become liable for any amounts guaranteed under the community transit operation in question.
- b. The first notification must state the number and acceptance date of the transit declaration, the name of the office of departure and holder of the procedure and the notification text.
- c. The second notification must state the number and acceptance date of the transit declaration, the name of the office of departure, the name of the holder of the procedure and the amount involved.
- d. Where the guarantor has been notified that a community transit procedure has not been discharged, the customs office of departure shall retain the undertaking on the basis of the information received until recovery or discharge has been completed or, if appropriate, the guarantor is released from his liability.

#### **Article 28: Payment of claims**

- a. Where a customs debt becomes due, as a result of non-fulfillment of the requirements of the Community transit procedure, the guarantor shall pay the duties and other charges in the national currency of the member state in whose territory the debt became due.
- b. In the event of a claim against the guarantee, the rate of exchange to be used is that in force on the day of the acceptance of the transit declaration at the customs office of departure.

#### **Article 29: Discharge of the guarantee**

- a. Once the transit requirements have been satisfied, and the goods in transit as well as the required documents are presented at the office of destination, and on the basis of the data available to the customs office of departure it is able to establish that the transit procedure has ended correctly, the guarantee shall be discharged without delay.

- b. The discharge of a guarantee means the actual release and return of the guarantee used by the operator to ensure the deferred payment of taxes and duties due under a transit operation.
- c. A guarantee in the form of an undertaking is considered released and the guarantor's liability extinguished only when the guarantee has been effectively and actively returned to the guarantor.
- d. The discharge of the guarantee shall be effected by the Customs office of departure.

## **CHAPTER VI: CALCULATION OF THE REFERENCE AMOUNT FOR COMPREHENSIVE GUARANTEE**

### **Article 30: Principle of reference amount for comprehensive guarantee**

- a. To simplify determination of the amount of guarantee before each transit operation, Customs administrations may apply reference (estimated) amount.
- b. In order to protect the financial interests of member states and to meet the requirements of the holder of the procedure, the reference amount must be calculated with the utmost care.
- c. The customs office of departure shall establish the reference amount in cooperation with the holder of the procedure on the basis of the information on goods placed under the community transit procedure in the preceding 12 months and on an estimate of the volume of intended operations in the future. In agreement with the applicant, the customs office of departure may assess the reference amount by rounding up the sums in order to cover the required amount.
- d. Reference (estimated) amount could be periodically checked and adjusted if necessary.

### **Article 31: Calculation of reference amount**

- a. Calculation of the reference (estimated) amount shall be done on the basis of duties and taxes (paid or liable) during the previous specified time and previous number (and estimations of future number) of transit operations carried out.
- b. The reference amount shall correspond to the amount of the (customs) debt which may become payable in connection with each Community transit operation in respect of which the guarantee is provided, in the period between the placing of the goods under the community transit procedure and the moment when that procedure is discharged.
- c. The calculation of the reference amount should also include the transport of goods during peak periods or those goods he does not regularly declare for transit, in order to cover all possible eventualities.

- d. The customs office of departure may review the reference amount on its own initiative or following a request from the holder of the procedure and shall adjust it if necessary.

## **CHAPTER VII: GUARANTEE MANAGEMENT**

### **Article 32: Electronic Guarantee management system (GMS)**

- a. The Community shall put in place an electronic Guarantee Management System (GMS) which shall be linked to SIGMAT.
- b. The electronic Guarantee Management System (GMS) represents an important component of the Community automated transit system, which ensures an efficient and effective management of transit guarantees.
- c. Guarantees shall be lodged at the customs office of departure and shall be registered in the electronic Guarantee Management System (GMS) linked to SIGMAT by that office.

### **Article 33: Functions of the electronic Guarantee management system**

The functions of the electronic Guarantee management system include the following:

- a. generate a Guarantee Reference Number (GRN) which shall be on the transit declaration;
- b. registration of guarantee documents;
- c. provide for the exchange of electronic messages between various actors involved: the office of guarantee, guarantors, holders of the procedure, declarants and customs offices involved in the Community transit procedure;
- d. control of validity and available amount of guarantee at start of transit operation;
- e. release of guarantee after the end of transit operation.

### **Article 34: Transitional provisions**

- a. Pending the establishment of an electronic guarantee management system, guarantor's undertakings shall be received and processed by the office of departure.
- b. The undertaking shall be assigned a registration number which shall feature on the transit declaration and an electronic copy of the approved undertaking attached to the declaration in SIGMAT.

## CHAPTER VIII: FINAL PROVISIONS

### Article 35: Entry into Force

- a. This Regulation comes into effect upon signature by the Chairman of the Council of Ministers.
- b. This Regulation shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its date of signature by the Chairman of the Council of Ministers. It will also be published by each Member State in its Official Journal within the same period.

### Article 36: Publication

- a. This **Regulation C/REG.13/12/21** shall be published by the ECOWAS Commission in the official Journal of the Community from the date of signing by the Chairperson of the Council of Ministers.
- b. This **Regulation C/REG.13/12/21** shall also be published by each Member State in its National Gazette from the date of notification by the President of the Commission.

**DONE AT ABUJA THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



**H.E SHIRLEY AYORKOR BOTCHWEY**

**CHAIRPERSON**

**FOR COUNCIL**

ANNEX A

**GUARANTOR'S UNDERTAKING — INDIVIDUAL GUARANTEE**

**I. Undertaking by the guarantor**

1. The undersigned (name of firm)

.....

Resident at (Full address)

.....

hereby jointly and severally guarantees, at the office of departure of

.....

up to a maximum amount of

.....

in favour of (name of the member state(s) on whose territory the guarantee may be used)

any amount for which the person providing this guarantee: (name of firm and full address of the person providing the guarantee)

.....

may be or become liable to the above mentioned country or countries for debt in the form of duty and other charges with respect to the goods described below covered by the Community transit procedure.

Goods description:

.....

2. The undersigned undertakes to pay upon the first application in writing by the competent authorities of the countries referred to in point 1 and without being able to defer payment beyond a period of 30 days from the date of application the sums requested unless he or she or any other person concerned establishes before the expiry of that period, to the satisfaction of the customs authorities, that the Community transit procedure has been discharged.

At the request of the undersigned and for any reasons recognized as valid, the competent authorities may defer beyond a period of 30 days from the date of application for payment the period within which he or she is obliged to pay the requested sums. The expenses incurred as a result of granting this additional period, in particular any interest, must be so calculated that the amount is equivalent to what would be charged under similar circumstances on the money market or financial market in the country concerned.

3. This undertaking shall be valid from the day of its approval by the office of departure. The undersigned shall remain liable for payment of any debt incurred during the transit operation covered by this undertaking and commenced before any revocation or cancellation of the guarantee took effect, even if the demand for payment is made after that date.

4. For the purpose of this undertaking, the undersigned gives his or her address for service in each of the other countries referred to in point 1 as: (Country, name of firm, and full address).....

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his or her addresses for services shall be accepted as duly delivered to him or her.

The undersigned acknowledges the jurisdiction of the courts of the places where he or she has an address for service.

The undersigned undertakes not to change his or her address for service or, if he or she has to change one or more of those addresses, to inform the office of departure in advance.

Done at .....on .....

(Signature)

**II. Approval/Rejection/Discharge (*Underline applicable one*) by the office of departure**

Office of Departure: .....

Guarantor's undertaking approved/rejected/discharged (*underline applicable one*) on ..... to cover the Community transit procedure effected under Transit declaration no .....of.....

(Stamp and Signature)

ANNEX B

**GUARANTOR'S UNDERTAKING - COMPREHENSIVE GUARANTEE**

**I. Undertaking by the guarantor**

1. The undersigned (Name of firm)

Resident at (Full address)

hereby jointly and severally guarantees, at the office of departure of

up to a maximum amount of

composed of an amount of:

being 100% of the part of the reference amount corresponding to an amount of customs debts and, where applicable, other charges which may be incurred in favour of (name of the member state(s) on whose territory the guarantee may be used)

any amount for which the person providing this guarantee (name of firm and full address of the person providing the guarantee):

may be or become liable to the abovementioned country or countries for debt in the form of duty and, where applicable, other charges which may be incurred with respect to the goods covered by the Community transit operation.

2. The undersigned undertakes to pay upon the first application in writing by the competent authorities of the countries referred to in point 1 and without being able to defer payment beyond a period of 30 days from the date of application the sums requested unless he or she or any other person concerned establishes before the expiry of that period, to the satisfaction of the customs authorities, that the Community transit procedure has been discharged.

At the request of the undersigned and for any reasons recognized as valid, the competent authorities may defer beyond a period of 30 days from the date of application for payment the period within which he or she is obliged to pay the requested sums. The expenses incurred as a result of granting this additional period, in particular any interest, must be so calculated that the amount is equivalent to what would be charged under similar circumstances on the money market or financial market in the country concerned.

3. This undertaking shall be valid from the day of its approval by the office of departure. The undersigned shall remain liable for payment of any debt incurred during the transit operation covered by this undertaking and commenced before any revocation or cancellation of the guarantee took effect, even if the demand for payment is made after that date.

4. For the purpose of this undertaking, the undersigned gives his or her address for service in each of the other countries referred to in point 1 as: (Country, name of firm, and full address)

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his or her addresses for services shall be accepted as duly delivered to him or her.

The undersigned acknowledges the jurisdiction of the courts of the places where he or she has an address for service.

The undersigned undertakes not to change his or her address for service or, if he or she has to change one or more of those addresses, to inform the office of departure in advance.

Done at .....on .....

(Signature)

**II. Approval/Rejection/Discharge (*Underline applicable one*) by the office of departure**

Office of Departure.....

Guarantor's undertaking approved/rejected/discharged (*Underline applicable one*) on:

.....

(Stamp and Signature)



**EIGHTY-SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF  
MINISTERS**

Abuja, 9 -10 December 2021

**REGULATION C/REG.14/12/21 RELATING TO THE ADDITIONAL  
MODALITIES FOR THE APPLICATION AND MANAGEMENT OF  
DECISIONS, INCLUDING ADVANCE RULINGS, RELATING TO THE  
IMPLEMENTATION OF COMMUNITY CUSTOMS REGULATIONS**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11, 12 of the Revised ECOWAS Treaty of 1993 establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Articles 9, 17, and 18 of the ECOWAS Treaty as amended by Protocol AP/06/06 amending the said Treaty relating to the legal regime of Community Acts;

**MINDFUL** of Article 3 of the said Treaty laying down the areas in which the action of the Community must be directed towards the attainment of its aims and objectives;

**MINDFUL** of Decision A/DEC.17/01/06 of 12 January 2006 adopting the ECOWAS Common External Tariff (CET) and subsequent amending texts notably Supplementary Act A/SA.1/06/09 of 20<sup>th</sup> June 2009;

**MINDFUL** of Regulation C/REG.1/06/13 of 21 June 2013 defining the list of categories of goods in the tariff and statistical nomenclature of ECOWAS;

**MINDFUL** of Regulation C/REG.2/06/13 of 21 June 2013 on the determination of the customs value of goods within ECOWAS;

**MINDFUL** of Supplementary Act A/SA.1/07/13 of July 18, 2013 relating to the creation and establishment of one stop border posts at the borders of ECOWAS Member States, in order to facilitate trade and transit through the national borders of member states;

**MINDFUL** of Article 9 of the Supplementary Act A/SA1/2/16 of 17 December 2016 on the enhancement of the powers of the ECOWAS Parliament which sets out the areas in which the opinion of the Community Parliament is compulsorily required during the process of adoption of Community texts;

**MINDFUL** of the Supplementary Act A/SA.2/12/17 of 16 December 2017 adopting the ECOWAS Customs Code, particularly in its Articles 44 to 55;

**FOLLOWING APPROVAL** by the meeting of ECOWAS Finance Ministers held at Accra, the 12<sup>th</sup> November 2021;

**UPON THE OPINION of the ECOWAS Parliament** at its Second Ordinary Session held from 30<sup>th</sup> November to 18<sup>th</sup> December 2021;

## **ADOPTS**

### **CHAPTER I: PURPOSE, SCOPE AND DEFINITIONS**

#### **Article 1: Purpose**

This Regulation:

- a. amplifies the provisions of articles 180 and 206 of the ECOWAS Customs code; and
- b. defines the modalities for the functioning of the ECOWAS Community transit guarantee mechanism and establishes the criteria and procedure for the selection of a Community guarantor or guarantors as the case may be as required under the provisions of the Supplementary Act xxxxxxx on ECOWAS community transit.

#### **Article 2: Definitions**

For the purposes of this Regulation, the following definitions shall apply:

**Commission** means the Commission of the Economic Community of West African States whose creation is reaffirmed by Article 2 of the Revised Treaty signed at Cotonou on July 23, 1993.

**Discharge of the transit procedure** means that the transit operation has been ended correctly on the basis of a comparison of the data available at the Office of destination and that available at the Office of departure.

**ECOWAS/Community** means the Economic Community of West African States, whose creation is reaffirmed in Article 2 of the Revised Treaty signed in Cotonou on July 24<sup>th</sup> 1993.

**ECOWAS Treaty** means the revised ECOWAS Treaty signed at Cotonou on July 24 1993 as subsequently amended.

**ECOWAS Customs code** means the Customs Code of the Community adopted by Supplementary Act A/SA.2/12/17 on 16<sup>th</sup> December 2017.

**Comprehensive guarantee** means Customs guarantee which covers more than one transit operation by the same guarantor.

**Customs guarantee** means an undertaking which ensures to the satisfaction of the Customs that obligations towards the Customs will be fulfilled.

**Guarantor** means a natural or legal person who guarantees to pay the Customs debt of the economic operator in the event he or she fails to fulfil his/her obligations to Customs.

**Holder of transit procedure** means a natural or legal person on whose behalf the transit declaration is made, or a natural or legal person to whom the rights and obligations in respect of transit procedure have been transferred.

**Individual guarantee** means a Customs guarantee which covers only one transit transaction

**Member State** means a signatory State to the ECOWAS Treaty.

**Office of departure** means any Customs office at which a Customs transit operation commences.

**Office of destination** means any Customs office at which a Customs transit operation is terminated.

**Office of entry** means any office en route where transit goods enter the Customs territory of a member State.

**Office of exit** means any office en route where transit goods leave the Customs territory of a member state.

**Office of transit/Office en route** means any Customs office located on the route of Customs transit operations.

**SIGMAT** is a French acronym for the Community transit management system which translates as the interconnected system for the management of goods in transit

**Transit** means the customs procedure under which goods are transported under Customs control from one Customs office to another.

**Transit operation** means movement of goods transported under the transit procedure from the customs office of departure to the customs office of destination.

**Transit declaration** means the act whereby a person indicates in the prescribed form and manner a wish to place goods under the transit procedure.

**Customs territory of the Community** means the customs territories of Member States, including their territorial waters, internal waters and airspace, as defined by the Community Customs Code (Article 3), adopted as follows Supplementary Act A/SA.2/12/17 of December 16, 2017;

**MRN** means the movement reference number (MRN), which is a unique registration number, given by the electronic system to the transit declaration which accompanies the goods from the Office of departure to the Office of destination.

## **CHAPTER II: GENERAL PRINCIPLES OF GUARANTEE MECHANISM**

### **Article 3: Provision of transit guarantee**

- a. The provision of a guarantee to cover the duties and taxes suspended during a transit operation is a fundamental element of the community transit procedure.
- b. A well-designed guarantee system therefore, is a necessary prerequisite for an efficient transit procedure.
- c. The obligation to provide a guarantee is incumbent on the holder of the transit procedure.

### **Article 4: community guarantee**

- a. Unless otherwise provided by Customs legislation, Community guarantee is a Customs guarantee applicable within the Customs territory of the Community, in accordance with Article 206 of the ECOWAS Customs code and which is legally binding pursuant to any Community agreement between the member States.
- b. Each guarantee provided by a Community guarantor shall be valid for a single transit operation commencing from the office of departure and ends at the office of destination.
- c. The Community transit guarantee shall be an undertaking, in the form set out in annexes A and B of this Regulation, furnished by a Community guarantor in accordance with article 180(1b) of the ECOWAS Customs code.

### **Article 5: Types of guarantee**

- a. Notwithstanding the provisions of Article 4(b) which covers individual guarantee, the Community may use comprehensive guarantees which shall cover several transit operations carried out within a period not exceeding one year.
- b. The use of the comprehensive guarantee is a simplification of the standard rule and therefore subject to an authorization.

## **CHAPTER III: FACILITATION MEASURES LINKED TO THE GUARANTEE**

### **Article 6: Reduction of the guarantee**

Customs administrations may grant the benefit of the reduction of the guarantee as defined in the ECOWAS customs code to authorized operators.

### **Article 7: Conditions for reduction of guarantee**

The entities referred to in article x above may request from the customs administration of the country of departure, a reduction in the guarantee when they cumulatively justify:

- a. a healthy financial situation;

- b. sufficient experience in transit;
- c. compliance with legal and safety requirements;
- d. proven cooperation with customs administrations

#### **Article 8: Waiver of guarantee**

The following are exempted from the Community guarantee:

- a. authorized economic operators;
- b. relief and humanitarian goods;
- c. goods imported by persons referred to in article 178 paragraph 5 of the ECOWAS Customs Code.

#### **Article 9: Information on guarantee reference number (GRN)**

In case of waiver of guarantee, customs administrations may use a "fictitious" reference in order to meet the mandatory requirement of the GRN.

#### **Article 10: Temporary withdrawal of waiver**

Customs administrations may temporally suspend the guarantee waiver or reduction of the guarantee to the entities provided for in article 8 above when they violate criminal or civil law or when pending or unresolved legal proceedings involving those operators preclude direct involvement with Customs administrations.

### **CHAPTER IV COMMUNITY GUARANTOR**

#### **Article 11: Selection of Community guarantor(s)**

The Commission, in collaboration with the Customs administrations of member states, shall select the Community guarantor(s) based on applications received from potential guarantors and the full fulfillment of all the requirements of Articles 14 and 15 of this regulation.

#### **Article 12: Agreement with guarantor**

Following the selection of the community guarantor(s):

- a. A written agreement, by which the selected community guarantor (s) agree to full compliance with all the requirements of a community guarantor, shall be established between the community guarantor(s) and the ECOWAS Commission.
- b. The agreement referred to in paragraph (a) above, shall be in the three (3) official languages of the Community.
- c. A certified copy of the agreement shall be notified to member states.

### **Article 13: Duration of guarantor's approval**

The agreement referred to in article 7 above shall be valid for a period of three (3) years and renewable upon continued satisfactory fulfillment of the requirements and selection criteria of the guarantor.

### **Article 14: Requirements of a Community guarantor**

- a. In accordance with article 180 of the ECOWAS Customs code, the Community guarantor shall be a third person established in the customs territory of the Community or approved by the Community.
- b. The Community guarantor shall be a financial institution or an entity with sufficient financial base and approved by the Community.
- c. A guaranteeing association or non-financial institution shall be backed by a reputable bank approved by the Community.
- d. The community guarantor and the holder of the procedure shall not be the same entity.
- e. A community guarantor must have an address for service in each country for which his guarantee is valid. This ensures that written communications to and legal proceedings involving a guarantor can be verifiably delivered in any country in which a (customs) debt may arise in connection with goods under the transit procedure.
- f. In the absence of an address for service referred to in paragraph "e" above, the guarantor shall appoint agents in the member states.
- g. The guarantor shall undertake not to change his addresses for service without prior information to the ECOWAS Commission.
- h. The potential guarantor should not have engaged in any serious or repeated offences against Customs or tax legislation. Whereas the term "serious" applies to criminal law infringements this should not preclude the possibility of regarding the commission of administrative and civil irregularities as also being "serious" in accordance with national practice.

Similarly, the interpretation of the term "repeated" should be related to the number of offences that have been committed in a time period. It is proposed that three or more offences committed within a period of five years would be regarded as "repeated".

- i. Guarantors must be deemed highly reliable and can demonstrate sufficient collateral/assets to provide a high degree of confidence that any liability arising as a result of a failure to complete a transit movement that they have guaranteed will be honored and paid in full.

#### **Article 15: Selection criteria**

- a. In assessing a guarantor, it is important to include confirmation of financial backing arrangements with a reputable bank approved by the Community put in place by the guarantor (where the guarantor is not a financial institution) to limit their liabilities for transit guarantees to reasonable levels taking into account the liquidity of the guarantor.
- b. A community guarantor shall demonstrate sufficient organizational capabilities through the existence of corporate strategy, leadership, structure, processes and human resource capacity to inspire confidence in its ability to discharge the responsibilities under the Community transit procedure.
- c. As part of the approval process, the guarantor must show proof of sound financial standing enabling the guarantor to fulfil its obligations under this Regulation.
- d. In the assessment of the financial solvency of a guarantor, the Community shall take into account the following elements to evaluate the sufficient financial standing for the purpose of providing transit guarantee for Community transit procedure:
  - i. Net working capital (expressing the capacity to finance short-term needs),
  - ii. Creation of available resources (expressing the capacity to finance long term needs),
  - iii. Own Capital,
  - iv. Easy convertible assets,
  - v. Fixed assets
  - vi. Total balance sheet
  - vii. Current liabilities
  - viii. Liquidity ratio
  - ix. Solvency ratio
  - x. Probability of default (stability of the company);
  - xi. Equity ratio
  - xii. Return on Equity Ratio and Return on Investment Ratio (ability to make value with the capital and the investment you make with your activities);
  - xiii. Other relevant elements.

- e. The assessment of financial solvency shall be based on the certified audited accounts of the guarantor covering the three (3) previous years

#### **Article 16: Assessment of financial solvency of subsidiary**

- a. When judging the proven financial solvency of a subsidiary, it should be taken into account that a subsidiary company may operate under a guarantee from the parent company and the customs authorities could look into the accounts of that parent company providing support to ensure it has the facilities to do so.
- b. It is to be noted that letters of comfort provided by parent companies are often not legally binding contractual agreements and therefore do not constitute a legally enforceable guarantee.
- c. Where the applicant is dependent on the financial support of a parent (or other group) company to meet the proven financial solvency criterion the Community shall, where appropriate, ensure the support is provided in a legally binding, contractual agreement. To constitute a legally binding, contractual agreement it must contain an undertaking to irrevocably and unconditionally pay the liabilities of the subsidiary. Once signed, it has to be the legal responsibility of the signatory to pay any customs debts that are not paid by the applicant.

#### **Article 17: Revocation of guarantor's approval**

- a. The ECOWAS Commission may, on its own initiative, revoke the guarantor's authorization when the latter is no longer able to fulfill the conditions for its authorization in accordance with Articles 9 and 10 of this Regulation.
- b. The customs administration of any member state may, on the basis of a reasoned report, send a request to the ECOWAS Commission to request the revocation of the guarantor's approval.

#### **Article 18: Revocation of the undertaking**

- a. The customs office of departure may revoke the approval of the guarantor's undertaking in the event of non-compliance with the provisions of Article 203 (1.b) of the Community Customs Code.
- b. Where the customs office of departure revokes the undertaking of a guarantor, it shall notify the revocation to the guarantor and the holder of the procedure. The revocation shall take effect on the sixteenth (16<sup>th</sup>) day following the date on which the decision on the revocation is received or is deemed to have been received by the guarantor.

#### **Article 19: Termination of the undertaking**

- a. Provided that the customs administration didn't require that the form of guarantee chosen should be maintained for a specific period a guarantor may terminate his

undertaking at any time. The guarantor shall notify the termination to the customs office of departure.

b. The termination shall not affect goods which, at the moment where the termination takes effect, have already been placed and still are under a community transit procedure by virtue of the terminated undertaking.

c. The termination of the undertaking by the guarantor shall take effect on the 16th day following the date on which the termination is notified by the guarantor to the customs office of departure.

#### **Article 20: Steps after revocation and termination of undertaking**

a. When the guarantor's undertaking is revoked or terminated, the customs office of departure shall retain the guarantor's undertaking for at least one year except where the (customs) debt is extinguished or can no longer arise or the guarantor has been notified of the recovery of the (customs) debt or the discharge of the procedure.

b. The customs office of departure shall introduce into the electronic system information of any revocation of a guarantee or termination of an undertaking and the date when it becomes effective.

### **CHAPTER V OPERATION OF COMMUNITY TRANSIT GUARANTEE**

#### **Article 21: Calculation of the amount of the guarantee**

- a. The amount of a guarantee shall be calculated in such a way that it covers the full amount of the (customs) debt liable to be incurred.
- b. In general, the calculation is to be made on the basis of the highest rates applicable to such goods in the country of departure. The calculation is to include all the customs duties and other charges, such as, excise duties and value added tax that are applicable to those goods at import.
- c. When setting the guarantee amount, the following shall not be taken into account:
  - i. any potentially chargeable penalties;
  - ii. any interest for delayed payment;
  - iii. other concerns that would increase the guarantee amount or hinder transit operations unnecessarily.
- d. For the purpose of calculating the duties and taxes, the goods concerned are to be classified on the basis of the ECOWAS Common External Tariff (CET).
- e. Without prejudice to the provisions of paragraph "b" above, where the transit operation traverses the customs territory of more than one member state, the calculation of the guarantee amount shall take into account the highest rate of internal taxes relating to importation applicable in the intervening member states.

## **Article 22: Lodgment of guarantee**

- a. The guarantor shall undertake in writing to pay the amount of (customs) debt.
- b. An individual guarantee provided in the form of an undertaking shall be given using the form set out in Annex A to this regulation.
- c. A comprehensive guarantee provided in the form of an undertaking shall be given using the form set out in Annex B to this regulation.
- d. Where an individual guarantee is provided in the form of an undertaking by a guarantor, the proof of that undertaking shall be kept by the customs office of departure for the period of validity of the guarantee.
- e. The liability of the guarantor is based on the acceptance of this undertaking by the customs office of departure. The undertakings given by a guarantor for the purpose of a guarantee are lodged at the customs office of departure and approved.
- f. Following the approval of the undertaking, the customs office of departure shall assign a Guarantee Reference Number which shall be on the Transit declaration.
- g. To accept the undertaking, the Customs office departure shall check if all parts of guarantors undertaking are completed correctly, including the signatures of the guarantor. For this purpose the guarantor shall provide to the customs authority a list with the specimens of signatures of competent persons.
- h. The guarantor's undertaking shall be electronically attached to the transit declaration in the transit management system (SIGMAT).

## **Article 23: Formalities at the office of departure**

The customs office of departure shall check that:

- a. the guarantee details on the transit declaration match the original guarantee documents presented;
- b. the amount of the guarantee is sufficient;
- c. the guarantee is valid in all member states involved in the transit operation;
- d. the guarantee is in the name of the holder of the procedure named on the transit declaration;
- e. the guarantee has not expired;
- f. the validity period of one year from the date of issuance has not expired;

## **Article 24: Lack of adequate guarantee information on declaration**

- a. In cases where no information about a guarantee is given on the transit declaration, the declaration shall not be accepted.

- b. In cases where the amount of guarantee turns out to be insufficient, the customs office of departure shall not release the goods for transit unless a guarantee is furnished that covers the full amount of the (customs) debt liable to be incurred.

#### **Article 25: Liability**

- a. The liability of the guarantor is effective from the date the customs office of departure releases the goods for a transit operation covered by the guarantee.
- b. The liability of the guarantor is limited to the maximum amount shown on the guarantee document.
- c. Where the Community transit procedure has not been discharged, the customs administration of the country of departure shall, within nine (9) months from the presentation of the goods at the office of destination, notify the guarantor that the procedure has not been discharged.
- d. Where the procedure is still open after that nine-month period, the customs authorities of the country of departure within three years from the date of acceptance of the transit declaration, notify the guarantor that he is required to pay the (customs) debt in accordance with article 176 of the ECOWAS Customs code.
- e. The notification shall state the MRN and date of the transit declaration, the name of the customs office of departure, the name of the holder of the procedure and the amount involved.
- f. The guarantor shall be released from his obligations if either of those notifications have not been sent to him before the expiry of the time limit. However, if either of those notifications has been sent, the guarantor shall be informed of the recovery of the debt or the discharge of the procedure.

#### **Article 26: Guarantor's liability and release**

The joint and several liability of a guarantor for any debts incurred by his client, the holder of the procedure, continues for as long as there remains a possibility of such debts still becoming due, to the extent that:

- a. the holder of the procedure is in fact the debtor in respect of a debt incurred in the course of a transit operation covered by a guarantee provided by the guarantor;
- b. the debt has not yet been extinguished, e.g. by being paid, or it can still arise;
- c. the amount of the debt due does not exceed the maximum amount guaranteed by the guarantor;
- d. the guarantor has not been released from his obligations because the competent authority failed to send the notification within the prescribed period.

#### **Article 27: Notification of the guarantor**

- a. If the transit operation has not been discharged, the guarantor is to be notified of the non-discharge as follows:
  - i. By a letter from the Customs administration of the office of departure within 9 months from the date on which the goods should have been presented at the office of destination;  
and,
  - ii. by the Customs administration responsible for recovery within three (3) years of the date of acceptance of the transit declaration, that he is or may still become liable for any amounts guaranteed under the community transit operation in question.
- b. The first notification must state the number and acceptance date of the transit declaration, the name of the office of departure and holder of the procedure and the notification text.
- c. The second notification must state the number and acceptance date of the transit declaration, the name of the office of departure, the name of the holder of the procedure and the amount involved.
- d. Where the guarantor has been notified that a community transit procedure has not been discharged, the customs office of departure shall retain the undertaking on the basis of the information received until recovery or discharge has been completed or, if appropriate, the guarantor is released from his liability.

#### **Article 28: Payment of claims**

- a. Where a customs debt becomes due, as a result of non-fulfillment of the requirements of the Community transit procedure, the guarantor shall pay the duties and other charges in the national currency of the member state in whose territory the debt became due.
- b. In the event of a claim against the guarantee, the rate of exchange to be used is that in force on the day of the acceptance of the transit declaration at the customs office of departure.

#### **Article 29: Discharge of the guarantee**

- a. Once the transit requirements have been satisfied, and the goods in transit as well as the required documents are presented at the office of destination, and on the basis of the data available to the customs office of departure it is able to establish that the transit procedure has ended correctly, the guarantee shall be discharged without delay.

- b. The discharge of a guarantee means the actual release and return of the guarantee used by the operator to ensure the deferred payment of taxes and duties due under a transit operation.
- c. A guarantee in the form of an undertaking is considered released and the guarantor's liability extinguished only when the guarantee has been effectively and actively returned to the guarantor.
- d. The discharge of the guarantee shall be effected by the Customs office of departure.

## **CHAPTER VI: CALCULATION OF THE REFERENCE AMOUNT FOR COMPREHENSIVE GUARANTEE**

### **Article 30: Principle of reference amount for comprehensive guarantee**

- a. To simplify determination of the amount of guarantee before each transit operation, Customs administrations may apply reference (estimated) amount.
- b. In order to protect the financial interests of member states and to meet the requirements of the holder of the procedure, the reference amount must be calculated with the utmost care.
- c. The customs office of departure shall establish the reference amount in cooperation with the holder of the procedure on the basis of the information on goods placed under the community transit procedure in the preceding 12 months and on an estimate of the volume of intended operations in the future. In agreement with the applicant, the customs office of departure may assess the reference amount by rounding up the sums in order to cover the required amount.
- d. Reference (estimated) amount could be periodically checked and adjusted if necessary.

### **Article 31: Calculation of reference amount**

- a. Calculation of the reference (estimated) amount shall be done on the basis of duties and taxes (paid or liable) during the previous specified time and previous number (and estimations of future number) of transit operations carried out.
- b. The reference amount shall correspond to the amount of the (customs) debt which may become payable in connection with each Community transit operation in respect of which the guarantee is provided, in the period between the placing of the goods under the community transit procedure and the moment when that procedure is discharged.
- c. The calculation of the reference amount should also include the transport of goods during peak periods or those goods he does not regularly declare for transit, in order to cover all possible eventualities.

- d. The customs office of departure may review the reference amount on its own initiative or following a request from the holder of the procedure and shall adjust it if necessary.

## **CHAPTER VII: GUARANTEE MANAGEMENT**

### **Article 32: Electronic Guarantee management system (GMS)**

- a. The Community shall put in place an electronic Guarantee Management System (GMS) which shall be linked to SIGMAT.
- b. The electronic Guarantee Management System (GMS) represents an important component of the Community automated transit system, which ensures an efficient and effective management of transit guarantees.
- c. Guarantees shall be lodged at the customs office of departure and shall be registered in the electronic Guarantee Management System (GMS) linked to SIGMAT by that office.

### **Article 33: Functions of the electronic Guarantee management system**

The functions of the electronic Guarantee management system include the following:

- a. generate a Guarantee Reference Number (GRN) which shall be on the transit declaration;
- b. registration of guarantee documents;
- c. provide for the exchange of electronic messages between various actors involved: the office of guarantee, guarantors, holders of the procedure, declarants and customs offices involved in the Community transit procedure;
- d. control of validity and available amount of guarantee at start of transit operation;
- e. release of guarantee after the end of transit operation.

### **Article 34: Transitional provisions**

- a. Pending the establishment of an electronic guarantee management system, guarantor's undertakings shall be received and processed by the office of departure.
- b. The undertaking shall be assigned a registration number which shall feature on the transit declaration and an electronic copy of the approved undertaking attached to the declaration in SIGMAT.

## **CHAPTER VIII: FINAL PROVISIONS**

### **Article 35: Entry into Force**

- a. This Regulation comes into effect upon signature by the Chairman of the Council of Ministers.
- b. This Regulation shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its date of signature by the Chairman of the Council of Ministers. It will also be published by each Member State in its Official Journal within the same period.

### **Article 36: Publication**

- a. This **Regulation C/REG.13/12/21** shall be published by the ECOWAS Commission in the official Journal of the Community from the date of signing by the Chairperson of the Council of Ministers.
- b. This **Regulation C/REG.13/12/21** shall also be published by each Member State in its National Gazette from the date of notification by the President of the Commission.

**DONE AT ABUJA THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



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**H.E SHIRLEY AYORKOR BOTCHWEY**

**CHAIRPERSON**

**FOR COUNCIL**

ANNEX A

**GUARANTOR'S UNDERTAKING — INDIVIDUAL GUARANTEE**

**I. Undertaking by the guarantor**

1. The undersigned (name of firm)

.....  
Resident at (Full address)

.....  
hereby jointly and severally guarantees, at the office of departure of

.....  
up to a maximum amount of

.....  
in favour of (name of the member state(s) on whose territory the guarantee may be used)  
any amount for which the person providing this guarantee: (name of firm and full address  
of the person providing the guarantee)

.....  
may be or become liable to the above mentioned country or countries for debt in the form  
of duty and other charges with respect to the goods described below covered by the  
Community transit procedure.

Goods description:

.....  
2. The undersigned undertakes to pay upon the first application in writing by the competent  
authorities of the countries referred to in point 1 and without being able to defer payment  
beyond a period of 30 days from the date of application the sums requested unless he or  
she or any other person concerned establishes before the expiry of that period, to the  
satisfaction of the customs authorities, that the Community transit procedure has been  
discharged.

At the request of the undersigned and for any reasons recognized as valid, the competent  
authorities may defer beyond a period of 30 days from the date of application for payment  
the period within which he or she is obliged to pay the requested sums. The expenses  
incurred as a result of granting this additional period, in particular any interest, must be so  
calculated that the amount is equivalent to what would be charged under similar  
circumstances on the money market or financial market in the country concerned.

3. This undertaking shall be valid from the day of its approval by the office of departure. The  
undersigned shall remain liable for payment of any debt incurred during the transit  
operation covered by this undertaking and commenced before any revocation or  
cancellation of the guarantee took effect, even if the demand for payment is made after that  
date.

4. For the purpose of this undertaking, the undersigned gives his or her address for service  
in each of the other countries referred to in point 1 as: (Country, name of firm, and full  
address).....

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his or her addresses for services shall be accepted as duly delivered to him or her.

The undersigned acknowledges the jurisdiction of the courts of the places where he or she has an address for service.

The undersigned undertakes not to change his or her address for service or, if he or she has to change one or more of those addresses, to inform the office of departure in advance.

Done at .....on .....

(Signature)

**II. Approval/Rejection/Discharge (*Underline applicable one*) by the office of departure**

Office of Departure: .....

Guarantor's undertaking approved/rejected/discharged (*underline applicable one*) on ..... to cover the Community transit procedure effected under Transit declaration no .....of.....

(Stamp and Signature)

ANNEX B

**GUARANTOR'S UNDERTAKING - COMPREHENSIVE GUARANTEE**

**I. Undertaking by the guarantor**

1. The undersigned (Name of firm)

.....  
Resident at (Full address)

.....  
hereby jointly and severally guarantees, at the office of departure of

.....  
up to a maximum amount of

.....  
composed of an amount of:

.....  
being 100% of the part of the reference amount corresponding to an amount of customs debts and, where applicable, other charges which may be incurred in favour of (name of the member state(s) on whose territory the guarantee may be used)

any amount for which the person providing this guarantee (name of firm and full address of the person providing the guarantee): .....

may be or become liable to the abovementioned country or countries for debt in the form of duty and, where applicable, other charges which may be incurred with respect to the goods covered by the Community transit operation.

2. The undersigned undertakes to pay upon the first application in writing by the competent authorities of the countries referred to in point 1 and without being able to defer payment beyond a period of 30 days from the date of application the sums requested unless he or she or any other person concerned establishes before the expiry of that period, to the satisfaction of the customs authorities, that the Community transit procedure has been discharged.

At the request of the undersigned and for any reasons recognized as valid, the competent authorities may defer beyond a period of 30 days from the date of application for payment the period within which he or she is obliged to pay the requested sums. The expenses incurred as a result of granting this additional period, in particular any interest, must be so calculated that the amount is equivalent to what would be charged under similar circumstances on the money market or financial market in the country concerned.

3. This undertaking shall be valid from the day of its approval by the office of departure. The undersigned shall remain liable for payment of any debt incurred during the transit operation covered by this undertaking and commenced before any revocation or cancellation of the guarantee took effect, even if the demand for payment is made after that date.

4. For the purpose of this undertaking, the undersigned gives his or her address for service in each of the other countries referred to in point 1 as: (Country, name of firm, and full address) .....

The undersigned acknowledges that all correspondence and notices and any formalities or procedures relating to this undertaking addressed to or effected in writing at one of his or her addresses for services shall be accepted as duly delivered to him or her.

The undersigned acknowledges the jurisdiction of the courts of the places where he or she has an address for service.

The undersigned undertakes not to change his or her address for service or, if he or she has to change one or more of those addresses, to inform the office of departure in advance.

Done at .....on .....

(Signature)

**II. Approval/Rejection/Discharge ( *Underline applicable one* ) by the office of departure**

Office of Departure.....

Guarantor's undertaking approved/rejected/discharged ( *Underline applicable one* ) on:

.....

(Stamp and Signature)



**EIGHTY- SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF  
MINISTERS**

Abuja 9 - 10 December 2021

**REGULATION C/REG. 15/12/21 RELATING TO THE DETERMINATION OF  
COMMUNITY REGIME FOR CUSTOMS DUTY RELIEFS IN THE ECOWAS  
REGION**

**THE COUNCIL OF MINISTERS;**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Article 37 of the said Treaty on the Common External Tariff (CET) and the Common Customs and Statistical Nomenclature;

**MINDFUL** of Decision C/DEC.3/7/93 of 3 July 1993 adopting a Common Customs and Statistical Nomenclature based on the Harmonized Commodity Description and Coding System (HS) and the subsequent amending texts;

**MINDFUL** of Protocol A/P.3/5/82 of 29 May 1982 on the Code of Community Citizenship;

**MINDFUL** of Supplementary Protocol A/SP.1/7/85 of 6 July 1985 on the Code of Conduct for the Implementation of the Protocol on the Free Movement of Persons, the Right of Residence and Establishment;

**MINDFUL** of Supplementary Protocol A/SP.1/7/86 of 1 July 1986 concerning the execution of the second phase (right of residence) of the Protocol on the Free Movement of Persons, the right of residence and establishment;

**MINDFUL** of Supplementary Protocol A/SP.2/5/90 of 29 May 1990 on the implementation of the third phase (right of establishment) of the Protocol on the Free Movement of Persons, the Right of Residence and Establishment;

**MINDFUL** of Decision A/DEC.17/01/06 of 12 January 2006 adopting the ECOWAS Common External Tariff;

**MINDFUL** of the Supplementary Act AS/1/06/09 of 22 June 2009 amending Decision A/DEC.17/01/06 of 12 January 2006 adopting the ECOWAS Common External Tariff;

**MINDFUL** of the Supplementary Act A/SA.1/06/12 of 29 June 2012, adopting the ECOWAS humanitarian policy and its action plan;

**MINDFUL** of the Supplementary Act A/SA.2/06/12 of 29 June 2012 adopting the ECOWAS Science, Technology and Innovation Policy and its Action Plan;

**MINDFUL** of the Supplementary Act A/SA.2/12/17 of December 16, 2017 adopting the Customs Code of ECOWAS, especially Articles 1, 2 and 271 thereof;

**BEARING IN MIND** the UNESCO Agreement on the Importation of Educational, Scientific and Cultural Materials and its protocol (Florence, 17 June 1950, New York, 22 November 1950, and Nairobi, 28 November 1976) and the Agreement to Facilitate the International movement of visual and auditory materials of an educational, scientific and cultural nature (Beirut, 1948);

**BEARING IN MIND** the Convention on International Civil Aviation (Chicago, 7 December 1944);

**TAKING INTO ACCOUNT** the International Convention to Facilitate the Importation of Commercial Samples and Advertising Material (Geneva, 7 November 1952)

**CONSIDERING** the Convention on Customs Facilities for Touring (New York, 4 June 1954);

**CONSIDERING** the Customs Convention concerning facilities for the importation of goods for display or use at exhibitions, fairs, congresses or similar events, excluding those intended for sale (Brussels, June 8, 1961);

**CONSIDERING** that the duties listed in the ECOWAS Common External Tariff are applicable to all goods imported into the Community;

**CONSIDERING**, however, the need to provide for cases in which importation may be effected under a duty-free regime exempting the goods from the application of the import duties which they would normally be liable to;

**CONSIDERING** that such duty relief arrangements are generally the result of international multilateral conventions to which Member States or some of them are contracting parties and that it is incumbent on the Community to apply those conventions, but this application presupposes the introduction of Community rules on customs duty reliefs which eliminate, in accordance with the requirements of the customs union, divergences as to the purpose, scope and conditions of application of the duty reliefs provided for by these conventions and to allow all the persons concerned to enjoy the same benefits throughout the Community.

**NOTING** that certain duty reliefs applied in Member States result from specific agreements concluded with third countries or international organizations and that, due of their purpose, these conventions only concern the signatory Member States, and consequently authorize them to be granted by the Member States concerned, if necessary, by means of an appropriate procedure established for that purpose.

**FOLLOWING** validation by the regional meeting of experts held from 31 May 2021 to 4<sup>th</sup> June 2021 in Abidjan;

**FOLLOWING APPROVAL** by the meeting of ECOWAS Finance Ministers held in Accra the 12<sup>th</sup> November 2021;

**UPON THE OPINION** of the Parliament of the Community at its Second ordinary Session held in Abuja from 30<sup>TH</sup> November to 18<sup>TH</sup> December 2021.

## **ENACTS**

### **TITLE I: PURPOSE, SCOPE AND DEFINITIONS**

#### **CHAPTER I: PURPOSE AND SCOPE**

##### **Article 1: Purpose and scope**

1. This Regulation defines the cases in which, owing to special circumstances, relief from import duties or export duties may be granted for goods under Article 271 of the ECOWAS Customs Code, when released for home use or free circulation, or export outside the customs territory of the Community, as the case may be.
2. This Regulation shall not preclude the application by Member States of import or export prohibitions or restrictions justified on grounds of public morality, public policy, public security or protection of health and the lives of people and animals or plant life, the protection of national treasures of artistic, historical or archaeological value or the protection of industrial or commercial property.

#### **CHAPTER II: DEFINITIONS**

##### **Article 2: Definitions**

For the purposes of this Regulation, the following definitions shall apply:

1. **'Relief from import duties and taxes'** means the release for home use or free circulation of goods totally or partially free of import duties and taxes, irrespective of their normal tariff classification or the amount of duties and taxes, to which they are normally liable, provided they are imported under specified conditions and for a defined purpose, with the exception of charges, the amount of which is limited to the approximate cost of the services rendered or which are collected by the Customs Administration on behalf of another national authority;
2. **"Relief from export duties and taxes"** means the definitive exportation of goods free from all or part of the customs duties and all other duties, taxes or other charges imposed on the export or export of goods, with the exception of charges, the amount of which is limited to the approximate cost of the services rendered or which are collected by the Customs Administration on behalf of another national authority;
3. **'baggage'** means all goods transported by any means whatsoever as part of a journey by a natural person;

4. **"personal property"** means property that is for the personal use of the persons concerned or the needs of their household.

(a) Constituting, in particular, personal property:

i. movable effects and objects: which include personal effects, household linen and furnishings or equipment intended for the personal use of the persons concerned or the needs of their household;

ii. cycles and motorcycles, private motor vehicles and their trailers, camping caravans, pleasure boats and passenger planes.

(b) Also constituting personal property, household provisions corresponding to normal family supplies, house animals and saddle animals, as well as portable instruments of mechanical or liberal arts necessary for the exercise of the profession of the person concerned. Personal property must not be, by its nature or quantity, of any commercial character;

5. **"Alcoholic beverages"**: means products (beers, wines, aperitifs based on wine or alcohol, spirits, liqueurs or spirituous beverages etc.) falling within heading 2203 to 2208 of the tariff and statistical nomenclature of ECOWAS Common External Tariff (ECOWAS CET);

6. **"Citizen or citizens of the Community"** means any national or nationals of a Member State who fulfills the conditions laid down in Protocol A/P.3/5/82 on the Code of Community Citizenship;

7. **'right of residence'** means the right of a citizen of a Member State to reside in a Member State other than his/her Member State of origin and who issues him/her a residence permit or card but not for a job;

8. **"Export Duties and Taxes"** means Customs duties and all other duties, taxes or other charges levied on or in connection with the exportation of goods, except charges the amount of which is limited to the approximate cost of services rendered or collected by the Customs Administration on behalf of a national authority;

9. **"Import duties and taxes"** means customs duties and any other duties, taxes or other charges levied on or in connection with the importation of goods, with the exception of charges the amount of which is limited to the approximate cost of the services rendered or which are collected by the Customs Administration on behalf of a national authority;

10. **'Personal effects'** means all new or used items that a traveler may reasonably require for personal use on his/her trip, excluding any goods imported or exported for commercial purposes;

11. **"goods of no commercial character"**:

(a) goods contained in consignments sent from one private person to another, where such consignments:

i. for an occasion;

ii. contain only goods reserved for the personal or family use of the consignees, the nature or quantity of which must not be of any commercial intent; and

iii. are sent by the sender to the addressee without payment of any kind;

(b) goods contained in the personal luggage of passengers where such goods:

i. for an occasion; and

ii. consists exclusively of goods reserved for the personal or family use of travelers or goods intended to be offered as gifts, the nature or quantity of which must not reflect any commercial intent;

12. **"Release for home use"** means the customs procedure which allows imported goods to be released for free circulation in the customs territory upon the payment of any import duties and taxes which may be liable and the fulfillment of all the necessary customs formalities;

13. **"resident"** means any citizen who is a national of a Member State to which the right of residence is conferred;

14. **'customs supervision'** means the general action taken by the customs authorities to ensure compliance with customs legislation and, where appropriate, other provisions applicable to goods which are subject to that action;

15. **'Customs territory of the Community'** means the customs territories of Member States, including their territorial waters, internal waters and airspace, as defined by the Community Customs Code (Article 3), adopted as follows Supplementary Act A/SA.2/12/17 of December 16, 2017;

16. **"traveler"**: any natural person who:

(a) enters temporarily into the customs territory of the Community and is not a habitual resident there; or

(b) return to the customs territory of the Community where he is a habitual resident after having temporarily resided outside that territory; or

(c) temporarily leaves the customs territory of the Community where he is a habitual resident; or

(d) leaves the customs territory of the Community after having temporarily stayed there, without being a habitual resident there;

## **TITLE II: RELIEF FROM IMPORT DUTIES AND TAXES**

### **CHAPTER I: SHIPMENTS OF NO COMMERCIAL CHARACTER**

#### **SECTION 1: Goods contained in the personal luggage of Travelers**

##### **Article 3: Conditions of duty-free admission**

1. Goods contained in the personal luggage of travelers coming from a third country shall be admitted free of import duties and taxes, provided that they are goods of no commercial value as defined in paragraph 1. Article 2(8b) above or for their personal use.

2. In respect of the goods listed below, the relief referred to in Article 3 (1) shall be limited to the quantities fixed in respect of each of them as follows:

a) tobacco products:

i. cigarettes: 200 units

ii. cigarillos: 25 units

iii. cigars: 25 units

iv. smoking tobacco: 25 grams

v. proportional sets of these different products

(b) Alcohol and alcoholic beverages:

i. Distilled beverages and spirituous beverages: maximum of hundred (100) centilitres per species

ii. wines: Minimum of seventy-five (75) centiliters or maximum of one hundred and fifty (150) centilitres

iii. proportional sets of these different products

(c) perfumes and eau de toilette: twenty-five (25) centilitres.

## **SECTION 2: Shipments addressed from individual to individual**

### **Article 4: Conditions for duty-free admission**

Subject to Articles 5 and 6, goods contained in items addressed from a third country by an individual to another individual in the customs territory of the Community shall be admitted free of import duties and taxes, subject to Articles 5 and 6 so far as non-commercial imports as defined in Article 2(11a) above are concerned.

### **Article 5: Value of shipments**

1. The relief referred to in Article 4 shall be applied to the value determined in accordance with Article 156 (5) of the ECOWAS Customs Code and determined by the national rules of each Member State.

2. Where the total value of several goods exceeds, by consignment, the amount indicated in paragraph 1, the relief shall be granted up to that amount for those goods which, imported separately, could have benefited from the said relief, being understood that the value of a commodity cannot be divided.

#### **Article 6: Quantities admitted free of duty**

In the case of the goods listed above, the relief referred to in Article 4 shall be limited per consignment to the quantities fixed in respect of each of them in Article 3 (2a,b, and c).

#### **SECTION 3: Shipments of negligible value**

##### **Article 7: Conditions of duty-free admission**

1. Subject to Article 8, consignments consisting of goods of negligible value which are dispatched directly from a third country to a consignee in the Community Customs territory shall be admitted free of import duties and taxes.

2. For the purposes of paragraph 1, "goods of negligible value" means goods whose intrinsic value does not exceed a total amount per consignment fixed by national regulations.

##### **Article 8: Exclusions**

The following are excluded from duty-free admission, subject to the tolerances laid down in Article 3(2) above:

- (a) alcoholic beverages;
- (b) perfumes and toilet waters;
- (c) tobacco and tobacco products.

#### **SECTION 4: Goods Imported for Business Purposes**

##### **Sub-Section I: Samples of Goods of Negligible Value**

##### **Article 9: Conditions of duty-free admission**

1. Without prejudice to the provisions of Article 13(1a), samples of goods the value of which is negligible and which can only be used for search for orders of goods of the kind which they represent with a view to their importation into the customs territory of the Community shall be admitted free of import duties and taxes.

2. The competent authorities of the Member States may require that, in order to be eligible for duty relief, certain articles may be definitively put out of use by laceration, perforation, indelible and apparent marking or any other process, without this operation being able to make them lose their quality as sample.

3. For the purposes of paragraph 1, 'sample of goods' means representative articles of a class of goods the method of presentation and quantity of which for the same species or quality of goods renders them unusable for purposes other than prospecting.

## **Sub-Section II: Printed and advertising matter**

### **Article 10: Printed matter admitted free of duty**

The following shall be admitted free of import duties and taxes, subject to the provisions of Article 80; printed advertising matter such as catalogs, current prices, instructions for use or commercial notices relating to:

- (a) goods offered for sale or lease; or
- (b) services offered in the field of transport, commercial insurance or banking by a person established outside the customs territory of the Community.

### **Article 11: Conditions of duty-free admission**

The relief referred to in Article 10 shall be limited to advertising forms which meet the following conditions:

- (a) the printed matter must clearly bear the name of the enterprise that produces, sells or leases the goods or provides the services to which they relate;
- (b) each consignment must contain only one document or one copy of each document if it consists of more than one document. Consignments comprising several copies of the same document may nevertheless benefit from the relief if their total gross weight does not exceed one kilogram;
- (c) printed matter must not be the subject of group consignments from the same consignor to the same consignee.

### **Article 12: Objects without commercial value**

Goods of a non-commercial nature which are sent free of charge by the suppliers to their customers and which, apart from their advertising function, are not usable for any other purpose are also admitted free of import duties and taxes.

## **Sub-Section III: Products used or consumed at an exhibition or similar event**

### **Article 13: Products and goods admitted duty-free**

1. The following shall be admitted free of import duties and taxes, subject to the provisions of Articles 14 to 17:

- (a) small representative samples of goods manufactured outside the customs territory of the Community and intended for an exhibition or similar event;
- (b) goods imported solely for the purpose of demonstration or demonstration of machinery and apparatus manufactured outside the customs territory of the Community and presented at an exhibition or similar event;
- (c) miscellaneous low-value materials such as paints, varnishes, draperies, etc. used for the construction, fitting out and decoration of temporary stands held by representatives of third countries in a similar exhibition or event and which are destroyed in course their use;

(d) printed matter, catalogs, prospectus, current prices, advertising posters, illustrated and unstated calendars, unframed photographs and other items provided free of charge for use as advertising material for goods manufactured outside the customs territory of the Community and presented at an exhibition or similar event.

2. For the purposes of paragraph 1, 'exhibition or similar event' means:

(a) exhibitions, fairs, shows and similar events in trade, industry, agriculture and handcrafts;

(b) exhibitions or events organized primarily for philanthropic purposes;

(c) exhibitions or events organized mainly for scientific, technical, handicraft, artistic, educational or cultural, sports, religious or cultural, trade union or tourist purposes, or to help people better understand one another;

(d) meetings of representatives of international organizations or groups;

(e) ceremonies and official or commemorative events, except for exhibitions organized in a private capacity in shops or commercial premises, for the sale of goods from third countries

#### **Article 14: Conditions of duty-free admission of samples**

The relief referred to in Article 13(1a) shall be limited to samples which:

(a) are imported free of charge as such from third countries;

(b) used exclusively for free distribution to the public during the event for use or consumption by the persons to whom it has been distributed;

(c) are identifiable as advertising samples of low unit value;

(d) are not likely to be marketable and are, where appropriate, presented in packages containing less than the minimum quantity of the same goods actually sold in trade;

(e) are consumed on the spot during the event, as regards unpackaged food and beverages as indicated in point (d);

(f) are in their overall value and quantity, related to the nature of the event, the number of visitors and the importance of the exhibitor's participation.

#### **Article 15: Conditions of duty-free admission of Goods for Events**

The relief referred to in Article 13(1b) shall be limited to goods which:

a) are consumed or destroyed during the event; and

b) are, in their overall value and quantity, related to the nature of the event, the number of visitors and the importance of the exhibitor's participation.

**Article 16: Conditions of admission free of printed matter and advertising objects**

The relief referred to in Article 13(1d) shall be limited to printed matter and advertising matter which:

- (a) are intended exclusively for distribution to the public free of charge at the place of the event;
- b) are in their overall value and quantity, related to the nature of the event, the number of visitors and the importance of the exhibitor's participation.

**Article 17: Exclusions from the relief**

The following are excluded from the relief referred to in Article 3(1a and b):

- (a) Alcoholic beverages subject to the tolerances provided for in Article 3(2a);
- (b) tobacco and tobacco products subject to the tolerances provided for in Article 3(2a);
- (c) perfumes and eau des toilettes subject to the tolerances provided for in Article 3(2c);
- (d) consumables and fuels.

**SECTION 5: Imported Goods for Examination, Analysis or Testing****Article 18: Goods admitted duty-free**

Subject to the provisions of Articles 19 to 24, goods intended for examination, analysis or testing for the purpose of determining their composition, quality or other technical characteristics, shall be free of import duties either for information purposes, or research purposes of an industrial or commercial nature shall be admitted free of import duties.

**Article 19: Conditions of duty-free admission**

Without prejudice to the provisions of Article 22, the grant of the relief referred to in Article 18 shall be subject to the condition that the goods subject to examination, analysis or testing are wholly consumed or destroyed during those examinations, analyzes or tests.

**Article 20: Exclusions from duty-free admission**

Excluded from the relief are goods used for examinations, analyses or tests which in themselves constitute commercial promotion operations.

**Article 21: Authorized Quantities for duty-free admission**

Relief is granted only for the quantities of goods strictly necessary for the purpose for which they are imported. These quantities shall be fixed in each case by the competent authorities of the Member States in accordance with this objective.

## **Article 22: Relief extended to the remaining products**

1. The relief referred to in Article 18 shall extend to goods which are not wholly consumed or destroyed during examinations, analyses or tests where the remaining products are, with the agreement and under the supervision of the competent authorities Member States:

(a) they are completely destroyed or rendered of no commercial value at the end of the examinations, analyses or tests;

(b) abandoned, free of all expenses, to the public treasury, if this possibility is provided for by national provisions;

(c) in duly justified circumstances, exported from the customs territory of the Community.

2. For the purposes of paragraph 1, "remaining products" means products resulting from examinations, analyses or tests or goods not actually used.

## **Article 23: Release for consumption of the remaining products following the examinations**

1. Except where the provisions of Article 22(1) are applied, the remaining products as a result of the examinations, analyses or tests referred to in Article 18 shall be subject to import duties and taxes to which they liable, according to the rate in force on the date on which those examinations, analyses or tests end, according to the species and on the basis of the customs value recognized or accepted at that date by the competent authorities of the Member States.

2. However, the person concerned may, with the agreement and under the supervision of the competent authorities of the Member States, reduce the remaining products of waste or scrap. In this case, the import duties are those relating to such waste or scrap on the date on which they obtained.

## **Article 24: Time limit**

The period within which the examinations, analyses or tests must be carried out and the administrative formalities to be completed in order to guarantee the use of the goods for the intended purposes shall be determined by the competent authorities of the Member States.

## **SECTION 6: Consignments meant for competent bodies for the protection of copyright or the protection of industrial or commercial property**

### **Article 25: Conditions of duty-free admission**

Goods shall be admitted free of import duties and taxes, trademarks, designs or designs and related filing dossiers, as well as files of patent applications or similar applications, for the organizations responsible for copyright protection or protection of industrial and commercial property.

## **SECTION 7: Tourism Documentation**

### **Article 26: Conditions of duty-free admission**

Without prejudice to the provisions of Articles 9 to 17, the following are admitted free of import duties and taxes:

- (a) documents (pamphlets, brochures, books, magazines, guides, framed or unframed posters, unframed photographs and photographic enlargements, illustrated or unmarked geographical maps, illustrated calendars) for free distribution and whose essential purpose is to bring the public to visit foreign countries, including attending meetings or events of a cultural, tourist, sports, religious or professional nature, provided that these documents do not contain more than 25% of private commercial advertising - to the exclusion of all private commercial advertising for Community undertakings - and that their purpose of general propaganda is obvious;
- (b) lists and directories of foreign hotels published by or under the patronage of tourist organizations, and timetables for transport services operated abroad, where such documents are intended for free distribution and do not contain more than 25% of private commercial advertising, excluding any private commercial advertising for community businesses;
- (c) technical material sent to accredited representatives or correspondents designated by official national tourism organizations, which is not intended to be distributed, that is, directories, lists of subscribers by telephone or telex, hotel lists, exhibition catalogs, samples of craft products of negligible value, documentation on museums, universities, spas, or other similar institutions.

## **SECTION 8: Documents and miscellaneous articles**

### **Article 27: Conditions of duty-free admission**

The following are admitted free of import duties and taxes:

- (a) documents sent free of charge to Public Services of the Member States;
- (b) publications by foreign governments and official publications of international bodies for free distribution;
- (c) ballot papers for elections organized by official national or international bodies established in third countries;
- (d) articles intended to serve as evidence or for similar purposes in the courts or other official bodies of the Member States;
- (e) specimens signatures and printed circulars relating to signatures that are sent in the context of usual exchanges of information between public services or banking institutions;
- (f) official forms sent to the central banks of the Member States;

- (g) reports, activity reports, information notes, prospectus, subscription forms and other documents issued by companies having their head office in a third country and intended for holders or subscribers of securities issued by those companies;
- (h) recorded media (punch cards, sound recordings, microfilm, etc.) used for the transmission of information sent free of charge to the addressee, provided that the relief does not give rise to significant abuses or distortion of competition;
- (i) records, archives, forms and other documents for use in international meetings, conferences or congresses, as well as the records of such events;
- (j) plans, technical drawings, tracing, descriptions and other similar documents imported for the purpose of obtaining or executing orders in third countries or for taking part in a competition organized in the customs territory of the Community;
- (k) documents intended for use in examinations organized in the customs territory of the Community by institutions established in a third country;
- l) forms intended to be used as official documents for international traffic of vehicles or goods, in the framework of international conventions;
- (m) forms, labels, tickets and similar documents dispatched by transport or hotel companies located in a third country to travel offices established in the customs territory of the Community;
- (n) forms and tickets, bills of lading, waybills and other commercial or office documents;
- (o) official forms issued by authorities of third or international countries, and printed matter conforming to international models sent by associations of third countries to corresponding associations located in the customs territory of the Community for distribution;
- (p) photographs, slides, and photographic blanks, whether or not containing captions, addressed to news agencies or publishers of newspapers or periodicals;
- (q) tax and similar stamps attesting to the payment of taxes in third countries.

## **CHAPTER II: TRANSFER OF RESIDENCE OR ACTIVITIES, AMENITIES, HERITAGES AND ESTATE**

### **SECTION 1: Personal property belonging to natural persons transferring their normal place of residence from a third country to the customs territory of the Community**

#### **Article 28: Goods admitted duty-free**

The following shall be admitted free of import duties and taxes, subject to the provisions of Articles 29 to 35, personal property as defined in Article 2(3), imported by natural persons transferring their normal residence to the territory customs authorities.

## **Article 29: Limitations**

1. The relief is limited to personal property that:

(a) except in special cases justified by the circumstances, have been in the possession of the person concerned and, in the case of non-expendable property, have been used by him in his former normal place of residence for at least six months before the date on which he has ceased to have his normal residence in the third country of origin;

(b) are intended to be used for the same purposes but rather at his new place of normal residence.

2. Member States may, in addition, make their duty-free admission subject to the condition that they have borne, either in the country of origin or the country of consignment, the customs and/or tax charges for which they are normally liable.

## **Article 30: Condition of residence**

1. Only persons who have had their normal place of residence outside the customs territory of the Community for at least twelve (12) consecutive months may benefit from the relief.

2. However, derogations from the rule referred to in paragraph 1 may be granted by the competent authorities of the Member States provided that the intention of the person concerned was to remain outside the customs territory of the Community for a minimum period of twelve (12) months.

## **Article 31: Exclusion of the relief**

The following are excluded from the relief:

(a) alcoholic beverages subject to the quantities permitted in Article 3(2 b) above;

(b) tobacco and tobacco products subject to the tolerances laid down in Article 3(2) above;

(c) other personal property as defined in Article 2(3b), including cycles and motorcycles, motor vehicles for private use, boats and private aircraft; However, the competent national authorities may grant the relief for such items where, due to exceptional political circumstances, a person transfers his normal residence.

d) professional equipment other than portable instruments of mechanical or liberal arts.

## **Article 32: Time limit**

1. Except in special circumstances, relief shall be granted only in respect of personal property declared for release for home use or release for free circulation before the expiry of a period of six (06) months from the date of the establishment by the person concerned of his normal residence in the customs territory of the Community.

2. The release for home use or free circulation of personal property may be effected maximum two times within the period referred to in paragraph 1 above.

### **Article 33: Exception to the condition of time limitation**

1. By way of derogation from the provisions of Article 32 (1), relief may be granted for personal property declared for release for free home use or free circulation before the establishment of the place of residence of the person concerned in the Community customs territory, subject to the commitment of that person to actually establish it within six months. This undertaking shall be accompanied by a guarantee which the competent authorities of the Member States shall determine in form and amount.

2. Where the provisions of paragraph 1 are used, the period laid down in Article 29 (a) shall be calculated from the date of introduction of the personal property into the customs territory of the Community.

### **Article 34: Exception to residence requirement**

1. Where, by reason of his professional obligations, the person concerned leaves the third country where he had his normal place of residence without simultaneously establishing that normal place of residence in the customs territory of the Community but with the intention of establishing it there subsequently, the competent authorities of the Member States may authorize the duty-free admission of personal property which he transfers for that purpose to that territory.

2. Duty-free admission of the personal property referred to in paragraph 1 shall be granted subject to the conditions laid down in Articles 28 to 34, with the understanding that:

(a) the periods laid down in Article 29 (a) and Article 32 (1) shall be calculated from the date of the introduction of the personal property into the customs territory of the Community;

(b) the period referred to in Article 33 (1) shall be calculated from the effective date of the establishment of the normal place of residence of the person concerned in the customs territory of the Community.

3. Duty-free admission shall, in addition, be subject to the undertaking by the person concerned to establish his normal residence in the customs territory of the Community within a period determined by the competent authorities of the Member States.

### **Article 35: Political Circumstances**

The competent authorities of the Member States may derogate from the provisions of Article 29(a and b), Article 31(c and d) and Article 33 where, as a result of exceptional political circumstances a person is obliged to transfer his normal residence from a third country to the customs territory of the Community.

**SECTION 2: Capital goods for investment and other capital goods imported on the occasion of a transfer of activities from a third country to the customs territory of the Community**

**Article 36: Goods admitted free**

1. Without prejudice to the measures in force in the Member States as regards industrial and commercial policy, capital goods for investment and other capital goods belonging to an enterprise which ceases its activity definitively in a third country to carry on a similar activity in the customs territory of the Community shall be admitted free of import duties and taxes, subject to the provisions of Articles 37 to 40.

2. Where the transferred enterprise is an agricultural holding, the livestock is also admitted free of duty.

3. For the purposes of paragraph 1, "enterprise" means an autonomous economic unit of production or service.

**Article 37: Conditions of duty-free admission**

The relief referred to in Article 36 is limited to capital goods for investment and other capital goods which:

(a) except in special cases justified by the circumstances, have actually been used in the enterprise for at least 12 months before the date of cessation of the business of the enterprise in the third country from which it is transferred;

(b) are intended to be used for the same purposes after the transfer;

(c) are relevant to the nature and importance of the enterprise in question.

**Article 38: Merger or Acquisition**

Enterprises whose transfer to the customs territory of the Community is caused by or in connection with a merger with, or acquisition by an enterprise established in the customs territory of the Community, without creating a new activity shall be excluded from duty relief.

**Article 39: Exclusion from relief**

The following are excluded from the relief:

(a) means of transport (cycles and motorcycles, vehicles for private use and their caravans, pleasure craft and private aircraft) not having the character of production instruments or services;

(b) provisions of any kind intended for human consumption or for feeding animals;

(c) fuels and stocks of raw materials or semi-manufactured or manufactured products;

#### **Article 40: Time limit**

Except in special circumstances justified by the circumstances, the exemption referred to in Article 36 shall be granted only for investment goods and other capital goods declared for home use or free circulation before expiry of a period of twelve (12) months from the date of termination of the business activity in the third country of consignment.

#### **Article 41: Liberal Profession and Non-Profit Activity**

The provisions of Articles 36 to 40 shall apply *mutatis mutandis* to capital goods for investment and other capital goods belonging to persons practicing a liberal profession as well as to legal persons engaged in a non-profit making activity and transferring this activity to a third country in the customs territory of the Community.

### **SECTION 3: Goods imported on the occasion of a marriage**

#### **Article 42: Goods admitted duty free**

1. Subject to the provisions of Articles 43 to 45, items and movable articles, even new ones, belonging to a person who transfers his normal place of residence from a third country to the customs territory of the Community may be admitted free of import duties and taxes on the occasion of his marriage with a resident citizen spouse of the Community.
2. The gifts usually offered on the occasion of a marriage, which are received by a person fulfilling the conditions laid down in paragraph 1, shall also be admitted free of import duties and taxes, subject to the same reservations in Articles 43 to 45 from persons having their normal residence in a third country. The value of each eligible gift, admitted duty-free, may not exceed an amount determined by the national regulations of each Member State.

#### **Article 43: Conditions of duty-free admission**

1. The relief referred to in Article 42 may be granted only to persons who:
  - (a) have had their normal place of residence outside the customs territory of the Community for at least 12 consecutive months; However, derogations from this rule may be granted provided that the intention of the person concerned was to remain outside the customs territory of the Community for a minimum period of 12 months;
  - (b) provide a deed attesting to the celebration of the union or any other proof of their marriage acceptable to the competent authorities of the Member States;
  - (c) provide an inventory of the items;
  - d) provide an official document proving that one of the spouses is a resident citizen of the Community as defined in Article 2(4) above.
2. Where necessary National regulations would lay down additional conditions

#### **Article 44: Exclusions from the relief**

The following are excluded from the relief subject to the tolerances provided for in Article 3 (2) (a) and (b) above:

- (a) alcoholic beverages,
- (b) tobacco and tobacco products.

#### **Article 45: Obligation to release for home use or free circulation**

1. Except in exceptional circumstances, relief shall be granted only for goods declared for home use or free circulation:

- (a) at the earliest [two (02) months] before the planned date of marriage (in this case, the relief is subject to the provision of an appropriate guarantee, the form and amount of which is determined by the competent authorities) ; and
- (b) no later than [four (04) months] after the date of the marriage.

2. Release for home consumption or free circulation of the goods referred to in Article 28 may be effected several times within the period referred to in paragraph 1 of this article.

#### **SECTION 4: Items, study requisites and other movable objects of pupils or students**

##### **Article 46: Conditions of duty free admission**

1. Items, study requisites, used movables, constituting the normal furnishings of a student room belonging to pupils and students coming to stay in the customs territory of the Community to carry out studies and for their personal use during the course of their studies shall be admitted free of import duties and taxes.

2. For the purposes of paragraph 1, the following definitions shall apply:

- (a) "pupil or student" means a person regularly enrolled in an educational institution for full-time attendance at the courses taught there;
- (b) 'items' means the body or house linen and even new clothing;
- (c) "study requisites" means the objects and instruments (including calculators, computers and other tablets) normally used by pupils and students for carrying out their studies.

##### **Article 47: Periodicity**

The exemption provided for in Article 46 above is granted once in a school year.

#### **SECTION 5: Personal Property Collected as a Result of Succession**

##### **Article 48: Goods admitted duty-free**

1. Subject to the provisions of Articles 49 and 50, the personal property collected, whether by lawful inheritance or by testate succession, shall be admitted free of

import duties and taxes by a natural person having his normal residence in the customs territory of the Community.

2. For the purposes of paragraph 1, "**personal property**" means all property referred to in Article 2(4a) which forms the legacy of the deceased.

#### **Article 49: Exclusions from the relief**

The following are excluded from the relief:

- (a) alcoholic beverages subject to the tolerances provided for in Article 3 (2a) above;
- (b) tobacco and tobacco products subject to the tolerances provided for in Article 3 (2a) above;
- (c) means of transport of a utilitarian nature (cycles and motorcycles, motor vehicles for private use, pleasure craft and private aircraft);
- (d) professional equipment, other than portable instruments of mechanical or liberal arts, necessary for the exercise of the profession of the deceased;
- (e) inventories of raw materials and worked or semi-finished products;
- (f) livestock and stocks of agricultural products exceeding the quantities corresponding to a normal family supply.

#### **Article 50: Obligation for release for home use or free circulation**

1. The relief shall be granted only for personal property declared for home use or free circulation at the latest two years after the date of possession of the goods (final settlement of the estate).

However, an extension of this period may be granted by the competent authorities of the Member States due to special circumstances.

2. The importation of personal property may be carried out in several installments within the period referred to in paragraph 1.

#### **Article 51: Property collected by legal persons**

The provisions of Articles 48, 49 and 50 shall apply *mutatis mutandis* to personal property collected by testate succession by legal persons engaged in a non-profit making activity established in the customs territory of the Community.

### **CHAPTER III: IMPORTS OF EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER**

#### **SECTION 1: Educational, scientific or cultural objects, scientific instruments and apparatus**

##### **Article 52: Articles admitted free of duty**

The following goods of an educational, scientific or cultural nature are admitted free of import duties and taxes:

- i. Books and publications for public utility libraries;
- ii. Books and publications received by the United Nations Educational, Scientific and Cultural Organization and distributed free of charge by it or under its control without being available for sale;
- iii. Books and publications of the United Nations and its Specialized Agencies;
- iv. Books adopted or recommended as textbooks in educational institutions and imported by these institutions;
- v. Albums or picture books and albums for drawing or colouring, for children;
- vi. Other printed matter, including pictures, engravings and photographs;
- vii. Cartographic works of all kinds, including wall maps, topographic plans and printed globes;
- viii. Relief maps of scientific fields such as geology, zoology, botany, mineralogy, paleontology, archeology, ethnology, meteorology, climatology and geophysics;
- ix. Instruments, apparatus and models designed for demonstration purposes (for example, in education or exhibitions), not suitable for other uses;
- x. Collection objects and works of art of an educational, scientific or cultural nature not intended for sale, imported by museums, galleries and other establishments approved by the competent authorities of the Member States to receive these items free of charge.

## **SECTION 2: Visual and auditory materials of an educational, scientific or cultural nature**

### **Article 53: Visual and auditory materials of an educational, scientific or cultural nature**

1-The visual and auditory materials of an educational, scientific or cultural nature are admitted free of import duties and taxes:

- Produced by the United Nations or one of its Specialized Agencies and intended for:

- (a) public or educational institutions or bodies of an educational, scientific or cultural nature;
- (b) institutions (museums or galleries) or broadcasting and television organizations, provided that they have been approved by the competent authorities of the Member States to receive such articles free of charge.

2-Within the meaning of this article, all visual and auditory equipment, is considered material having an educational, scientific or cultural character:

- a) whose main purpose or effect is to instruct and inform, by the presentation of a subject, or which is, by its very nature, apt to ensure the preservation, progress or diffusion of knowledge and to develop understanding;

- b) which is characteristic, authentic and truthful at the same time;
- c) whose technical quality is such that it cannot compromise its use.

3- the following constitute visual and auditory equipment referred to in paragraph 1 above:

- a) films, plates, slides, video tapes and sound recordings,
- b) Micro cards or other media used by computer information and documentation services,
- c) wall charts intended exclusively for demonstration and teaching,
- d) discs, tapes, storage devices for semiconductor-based data and other media for sound recording or for similar recordings;
- e) instruments, apparatus and models designed for demonstration that are not susceptible to other uses (models and wall charts, models or reduced visual models of abstract concepts such as molecular structures or mathematical formulas);
- f) holograms for laser projection and programmed teaching equipment, including those in the form of displays, accompanied by corresponding printed material.

### **SECTION 3: Scientific Instruments and Apparatus**

#### **Article 54: Scientific instruments and apparatus admitted free of duty**

1. Subject to Articles 55 to 58, scientific instruments and apparatus not covered by Article 53 which are imported exclusively for non-commercial purposes shall be admitted free of import duties and taxes.

2. The relief referred to in paragraph 1 shall be limited to scientific instruments and apparatus intended for:

- (a) public or public-service establishments whose main activity is teaching or scientific research, and services in a public or public-service establishment whose main activity is teaching or scientific research; or
- (b) establishments of a private nature whose main activity is education or scientific research, approved by the competent authorities of the Member States to receive such articles free of duty.

3. For the purpose of the application of articles 54 and 55:

- (a) "scientific instrument or apparatus" means an instrument or apparatus which, by reason of its objective technical characteristics and the results which it makes it possible to obtain, is used exclusively or mainly for carrying out scientific activities;
- (b) scientific apparatus or instruments intended for scientific research or teaching purposes, made for non-profit purposes, are considered to be "imported for non-commercial purposes".

#### **Article 55: Other parts and tools admitted duty-free**

The exemption referred to in Article 54 (1) shall also apply:

(a) specific spare parts, components or accessories suitable for scientific instruments or apparatus, provided that such spare parts, components or accessories are imported at the same time as such instruments or apparatus or, if they are subsequently imported, that they are recognizable as being intended for instruments or apparatus:

i. which have previously been admitted free of duty, provided that these instruments or apparatus are still of a scientific nature at the time when the exemption is requested for specific spare parts, components or accessories; or

ii. which would be eligible for the exemption at the time it is requested for specific spare parts, components or accessories;

(b) the tools to be used for the maintenance, checking, calibration or repair of scientific instruments or apparatus, provided that such tools are imported at the same time as those instruments or apparatus or, if they are subsequently imported, they are recognizable as being intended for instruments or apparatus:

i. which have previously been admitted free of charge, provided that these instruments or apparatus are still of a scientific nature at the moment when the relief for the tools is requested; or

ii. who would be eligible for the deductible at the time it is requested for the tools.

#### **SECTION 4: Equipment**

##### **Article 56: Equipment of establishments admitted free of duty**

1. Equipment imported for non-commercial purposes by or on behalf of an establishment or scientific research organization having its headquarters outside the Community shall be exempt from import duties and taxes.

2. The relief is granted provided that the equipment:

(a) are intended for use by, or with the agreement of, the members or representatives of the institutions and bodies referred to in paragraph 1 within the framework and within the limits of scientific cooperation agreements for the purpose of implementing scientific research programmes; in scientific research institutions established in the Community and approved for that purpose by the competent authorities of the Member States;

(b) remain, during their stay in the customs territory of the Community, the property of a natural or legal person established outside it.

3. For the purpose of this article:

(a) **"equipment"** means instruments, apparatus, machines and their accessories including spare parts and tools specially designed for maintenance, checking, calibrating or repairing, used for the purpose of scientific research;

(b) equipment intended to be used for non-profit scientific research purposes are considered as **"imported for non-commercial purposes"**,

## **SECTION 5: Common provisions on scientific materials, equipment, instruments or apparatus and objects of an educational or scientific nature**

### **Article 57: Exclusion of the relief**

Certain scientific instruments or apparatus and their tools may however, be excluded from the relief under articles 53, 54, 55 and 56 if it is found that the duty-free admission of such scientific instruments and apparatus is detrimental to the interests of a Community or national industry in the relevant production sector or where such instruments or apparatus and tools of equivalent scientific value are currently manufactured in the Community or in the Member State of importation.

### **Article 58: Restrictions**

1. Establishments or bodies referred to in Article 53, 54 and 56 which no longer qualify for the relief, or who intend to use an item admitted free of duty for purposes other than those provided for in those articles, shall require the authorization of the competent authorities of the Member States.
2. Items remaining in the possession of establishments or bodies which cease to qualify for relief shall be subject to the application of their own import duties and taxes, at the rate in force at the time of the date on which the said conditions cease to be fulfilled, according to the description and on the basis of the customs value recognized or accepted on that date by the competent customs authorities of the Member States.
3. The items used by the establishment or organization which is the beneficiary of the relief for purposes other than those provided for in Articles 53, 54, 55 and 56 shall be subject to the application of their own import duties and taxes, according to the rate in force on the date on which they are used for another purpose, according to the description and on the basis of the customs value recognized or accepted at that date by the competent customs authorities of the Member States.

## **CHAPTER IV: IMPORTS INTENDED FOR MEDICAL RESEARCH**

### **SECTION 1: Laboratory Animals and Biological or Chemical Substances for Research**

#### **Article 59: Conditions of duty-free admission**

1. The following shall be admitted free of import duties and taxes:
  - (a) animals specially prepared for laboratory use;
  - (b) biological or chemical substances on a list established by national regulations and which are imported exclusively for non-commercial purposes.
2. The relief referred to in paragraph 1 shall be limited to animals and biological or chemical substances intended for:

(a) public or public-service establishments whose principal activity is teaching or scientific research, and services in a public or public-service establishment whose principal activity is teaching or scientific research;

or (b) private establishments primarily engaged in teaching or scientific research, approved by the competent authorities of the Member States to receive such goods free of duty.

3. Only the biological or chemical substances for which there is no equivalent production in the customs territory of the Community and whose specificity or degree of purity gives them the character of substances which are exclusively or mainly suitable for scientific research can be included in the list referred to in paragraph 1 (b).

## **SECTION 2: Therapeutic substances of human origin and reagents for the determination of blood and tissue groups**

### **Article 60: Products admitted free of duty**

1. The following shall be admitted free of import duties and taxes, subject to the provisions of Article 63:

- (a) therapeutic substances of human origin;
- (b) reagents for the determination of blood groups;
- c) reagents for the determination of tissue groups.

2. For the purposes of paragraph 1, the following definitions shall apply:

(a) **"Therapeutic substances of human origin"** means human blood and its derivatives (total human blood, dried human plasma, human albumin and stable solutions of human plasma proteins, human immunoglobulin, human fibrinogen);

(b) **"blood group reagents"** means any reagent of human, animal, plant or other origin for the determination of blood groups and the detection of blood incompatibilities;

(c) **"reagents for the determination of tissue groups"** means any reagent of human, animal, plant or other origin for the determination of human tissue groups.

### **Article 61: Conditions for duty-free admission**

The relief is limited to products that:

(a) are intended for bodies or laboratories approved by the competent authorities for the purpose of using them exclusively for medical or scientific purposes, excluding any commercial operation;

(b) be accompanied by a certificate of conformity issued by a body authorized for that purpose in the third country of consignment;

(c) are contained in receptacles provided with a special identification label.

#### **Article 62: Packages admitted free of duty**

The relief extends to special packaging essential for the transport of therapeutic substances of human origin or reagents for the determination of blood or tissue groups, as well as the solvents and accessories necessary for their use that the consignments may possibly contain.

### **SECTION 3: Instruments and appliances for medical research, diagnosis or medical treatment**

#### **Article 63: Conditions for duty free admission**

1. Instruments and apparatus for medical research, diagnosis or medical treatment offered as a gift by a charitable or philanthropic organization shall be admitted free of import duties and taxes or by a private person to health organizations, hospital departments and medical research institutes approved by the competent authorities of the Member States to receive such items free of duty or purchased by such health organizations, hospitals or institutes of medical research entirely with funds provided by a charitable or philanthropic organization or by means of voluntary contributions, provided it is established that:

(a) the donation of the instruments or apparatus in question conceals no commercial intent on the part of the donor; and

(b) the donor is not in any way bound to the manufacturer of the instruments or apparatus for which the relief is requested.

2. The relief is also applicable, under the same conditions:

(a) specific spare parts, components and accessories suitable for the instruments and appliances referred to in paragraph 1, provided that such spare parts, components and accessories are imported at the same time as those instruments or apparatus or, if they are imported later, that they are recognizable as being intended for instruments or apparatus previously admitted free of duty;

(b) the tools to be used for the maintenance, checking, calibration or repair of the instruments or apparatus, provided that such tools are imported at the same time as those instruments or apparatus or, if they are subsequently imported, they are recognizable as being intended for instruments or apparatus previously admitted free of charge.

#### **Article 64: Exclusions, prohibitions and special situations**

For the purposes of applying Article 65, and in particular as regards the instruments or apparatus and the beneficiary organizations referred to therein, Articles 57 and 58 shall apply *mutatis mutandis*.

## **SECTION 4: Reference substances for drug quality control**

### **Article 65: Conditions for duty-free admission**

Consignments containing samples of reference substances authorized by the World Health Organization and intended for the quality control of materials used in the manufacture of medicinal products and addressed to entities approved by the competent authorities of the Member States to receive such consignments free of duty in the importing country shall be admitted free of import duties and taxes.

## **CHAPTER V: MEDICINAL AND PHARMACEUTICAL PRODUCTS**

### **SECTION 1: Medicaments for human medicine**

#### **Article 66: Conditions for duty-free admission**

Medicines specifically intended for the fight against endemic diseases and imported by the national health services of the Member States or on their behalf shall be admitted duty free and tax-free under the conditions laid down by the national regulations of each Member State,

### **SECTION 2: Medicaments for veterinary medicine**

#### **Article 67: conditions for duty-free admission**

Medicinal products specifically intended for the control of tropical endemic diseases and imported by national animal or livestock industries or on their behalf shall be admitted free of duties and taxes under the conditions laid down by the national regulations of each Member State.

### **SECTION 3: Pharmaceutical Products Used at International Sporting Events**

#### **Article 68: Conditions for duty-free admission**

The importation of pharmaceutical products for human or veterinary medicine for the use of persons or animals coming from third countries to participate in international sports events organized in the customs territory of the Community shall be admitted free of import duties and taxes within the limit necessary to cover their needs during the period of their stay in the said territory.

## **CHAPTER VI: CONSIGNMENTS FOR CHARITABLE ACTIVITIES**

### **SECTION 1: Goods sent to Charitable and Philanthropic Organizations and for Persons with Disabilities**

#### **Sub-Section I: For the achievement of general objectives**

#### **Article 69: Conditions for duty-free admission**

1. The following shall be admitted free of import duties and taxes, provided that they do not give rise to substantial abuses or distortions of competition, subject to the provisions of Articles 73 and 74:

(a) essential goods imported by State agencies or by other charitable or philanthropic bodies approved by the competent authorities of the Member States, for free distribution to persons in need;

(b) goods of any kind sent without charge by a person or body established outside the customs territory of the Community and without any commercial intent on the part of the latter to State agencies or to other charitable or philanthropic organizations approved by the competent authorities of the Member States, with a view to raising funds during occasional charitable events for the benefit of persons in need;

(c) equipment, including office equipment supplied free of charge by a person or body established outside the customs territory of the Community, and without any commercial intent on the part of the latter, to charitable organizations or philanthropic approved by the competent authorities of the Member States, for use exclusively for the purposes of their operation and the achievement of the charitable or philanthropic objectives they pursue.

2. For the purposes of paragraph 1 (a), '**essential goods**' means goods which are essential for the immediate needs of humans, such as food, medicine, clothing and blankets.

#### **Article 70: Exclusions from the relief**

The following are excluded from the relief:

(a) alcoholic products subject to the tolerances provided for in Article 3 (2) (a) and (b);

(b) tobacco and tobacco products subject to the tolerances provided for in Article 3 (2) (c);

(c) coffee and tea;

(d) motor vehicles other than ambulances.

#### **Sub-section II: For the benefit of the disabled**

#### **Article 71: Objects for the visually impaired, admitted free of duty**

Goods mentioned below and specially designed for the educational, scientific or cultural promotion of the visually impaired are admitted free of import duties and taxes:

a) Talking books (discs, cassettes and other sound reproductions) and books, as well as pictures, engravings and relief photographs for the blind and partially sighted;

b) Devices that allow the blind and partially sighted to read normal printed texts, such as, electronic reading machines, tele-magnifiers and optical aids;

- c) Equipment for the mechanized or automated production of Braille material and recordings;
- d) Braille paper, magnetic tapes and cassettes for Braille books and talking books;
- e) Auxiliaries to promote the mobility of the blind, such as, electronic devices for orientation and obstacle detection and white canes;
- f) Technical auxiliaries for education, rehabilitation and vocational training as well as for the employment of the blind, such as Braille watches, Braille typewriters, teaching aids, devices specifically designed for the use of visually impaired.

**Article 72: Conditions of admission free of charge for objects for the visually impaired**

1. Goods specially designed for the educational, scientific or cultural promotion of the visually impaired, referred to in Article 75 above, when imported, and subject to import duties and taxes, shall be admitted free of import duties and taxes provided that equivalent articles are not produced in the Community or in the importing Member State:

- (a) by the visually impaired persons themselves and for their own use; or
- (b) institutions or organizations for the education of blind or blind persons approved by the competent authorities of the Member States to receive such articles free of charge.

2. The relief referred to in paragraph 1 shall apply to specific spare parts, components or accessories, suitable for the purposes in question, and to the tools to be used for the maintenance, checking, calibrating or repairing of such articles, provided that such spare parts, components, accessories or tools are imported at the same time as those articles or, if they are subsequently imported, that they are recognizable as being intended for articles previously admitted free of duty or which may be liable to benefit from the relief at the moment when it is requested for spare parts, elements or specific accessories and tools considered.

**Article 73: Conditions of Admission Free of Objects for Other Persons with Disabilities**

1. Goods specially designed for the education, employment and social advancement of physically or mentally handicapped persons, other than the visually impaired, when imported, shall be admitted free of import duties and taxes provided that equivalent articles are not manufactured in the Community or in the importing Member State:

- (a) by the disabled persons themselves and for their own use;

(b) institutions or organizations whose main activity is the education or assistance of persons with disabilities and who are approved by the competent authorities of the Member States to receive such articles free of charge.

2. The relief referred to in paragraph 1 shall apply to spare parts, components or accessories adapted to the objects in question and to the tools to be used for the maintenance, checking, calibration or repair of such articles, provided that such spare parts, components, accessories or tools are imported at the same time as these articles or, if they are subsequently imported, that they are recognizable as being intended for articles previously admitted free of duty or which may be eligible for the relief at the moment when it is requested for the spare parts, elements or specific accessories and tools considered.

#### **Article 74: Exclusions from the relief**

Certain articles may be excluded from the relief if it is found that the relief for these articles is detrimental to the interests of the Community or national industry in the relevant production sector or if equivalent objects are manufactured in the Community or in the importing Member State.

#### **Article 75: Proof of blindness or disability**

The direct grant of the relief, for their own use, to blind or other disabled persons as provided for in Article 72 (1) (a) and Article 73 (1) (a), is subject to the condition that the provisions in force in the Member States allow the persons concerned to establish their state of blindness or of a disabled person entitled to benefit from the relief.

### **Sub-Section III: For the benefit of disaster victims**

#### **Article 76: Conditions of duty-free admission**

1. Goods shall be admitted free of import duties and taxes in accordance with the provisions of Article 271 of the Customs Code and, subject to the provisions of Articles 78 to 90 above, when imported by State agencies or by other charitable or philanthropic bodies approved by the competent authorities of the Member States, with a view to:

(a) to be distributed free of charge to victims of disasters affecting the territory of one or more Member States;

or (b) be made available free of charge to the victims of such disasters while remaining the property of the organizations concerned.

2. Goods imported for home use or for free circulation by rescue units to cover their needs during their intervention are also eligible for the relief referred to in paragraph 1 under the same conditions.

#### **Article 77: Exclusions from the relief**

Materials and equipment for the reconstruction of disaster areas are excluded from the relief.

## **SECTION 2: Common provisions for items intended for charitable activities**

### **Article 78: Prior authorization**

1. Imported essential goods referred to in Article 69 (1) (b) may not be loaned, hired or transferred for remuneration or free of charge, after ceasing to be used by disaster victims, without prior authorization from the competent authorities of the Member States.
2. In the case of a loan, leasing or transfer to an organization eligible for relief pursuant to Article 69 or, where appropriate, to an organization eligible for relief pursuant to Article 69 (1a), the relief remains acquired provided that the goods in question are used for purposes which gave rise to the right to grant such relief.
3. The institutions or organizations referred to in Articles 69, 72 and 73 which no longer qualify for the relief, or who intend to use an object admitted free of duty for purposes other than those provided for in those Articles, shall be required to obtain authorization from the competent authorities of the Member States.
4. Without prejudice to the provisions set out in Article 102 below, objects imported by institutions or organizations approved for the benefit of the relief under the conditions provided for in Articles 73 and 76 may be lent, leased or assigned for a consideration or free of charge, by these institutions or non-profit organizations for the blind and other disabled persons under their care, without giving rise to the payment of customs duties and taxes related to these objects and with the prior authorization of the competent authorities.

### **Article 79: Restrictions**

1. When the goods remaining in the possession of organizations which cease to fulfill the conditions required to benefit from the relief, are transferred to an organization entitled to benefit from relief under Article 73 (1b) or, where applicable, to an organization entitled to benefit from relief pursuant to Article 69 (1a), the relief shall be considered acquired provided that it uses the goods in question for purposes which gave rise to the right to the relief.
2. In other cases, the said goods shall be subject to the application of the import duties and taxes which are applicable to them, at the rate in force on the date on which the said conditions cease to be fulfilled, according to the description and on the basis of the customs value recognized or accepted on that date by the competent customs authorities of the Member States.
3. The goods used by the organization benefiting from the relief for purposes other than those provided for, are subject to the application of import duties and taxes applicable to them, according to the rate in force on the date on which they are used for another purpose, depending on the description and on the basis of the customs value recognized or accepted on that date by the competent customs authorities of the Member States.

## **Article 80: Monitoring of operations**

The relief is only granted to bodies, organizations and institutions whose records allow the competent authorities of the Member States to monitor their operations and which offer all the guarantees deemed necessary.

## **CHAPTER VII: IMMUNITIES, PRIVILEGES AND HONORARY DECORATIONS**

### **SECTION 1: Honorary Decorations and Awards**

#### **Article 81: Conditions of duty-free admission**

The following are admitted free of import duties and taxes, on justification given by interested parties to the satisfaction of the competent authorities of the Member States and provided that they are operations without any commercial character:

- (a) awards by third-country governments to persons whose normal place of residence is in the customs territory of the Community;
- (b) cups, medals and similar articles having essentially a symbolic character which, in a third country, are awarded to persons whose normal place of residence is in the customs territory of the Community in recognition of their activities in fields such as that the arts, sciences, sports, public service, or in recognition of their merits on the occasion of a particular event, are imported into the customs territory of the Community by these persons themselves;
- (c) cups, medals and similar articles having essentially a symbolic character which are offered free of charge by authorities or persons established in a third country to be allocated, for the same purposes as those referred to in point (b), in the customs territory of the Community;
- (d) awards, trophies and souvenirs of a symbolic and low-value nature intended for distribution free of charge to persons residing normally in third countries, at the occasion of business conventions or similar international events, and by their nature, unitary value and other characteristics, no commercial intent.

### **SECTION 2: Gifts Received within the framework of International Relations**

#### **Article 82: Duty-free admission of items**

Without prejudice, to the provisions of Article 3, if necessary, the following objects are admitted free of import duties and taxes, subject to the provisions of Articles 89 and 90:

- (a) imported into the customs territory of the Community by persons who have made an official visit to a third country and who received them as a gift on that occasion from the host authorities;
- (b) imported by persons coming to pay an official visit to the customs territory of the Community and who intend to give them as gifts on this occasion to the host authorities;

(c) as a gift, as a pledge of friendship or benevolence, by an official authority, a public authority or a group carrying out activities of public interest, located in a third country, to an official authority, a public authority or a group undertaking activities of public interest, approved by the competent authorities of the Member States to receive such articles free of duty and situated in the customs territory of the Community.

#### **Article 83: Exclusions from the relief**

Tobacco and tobacco products are excluded from the relief subject to the tolerances provided in Article 3 above.

#### **Article 84: Conditions of duty-free admission**

Relief is granted only if:

- (a) the items offered as a gift are occasional;
- (b) they do not reflect by their nature, value and quantity any commercial concern; and
- (c) they are not used for commercial purposes.

### **SECTION 3: Goods intended for use by Heads of State**

#### **Article 85: Conditions for duty free admission**

1. The following shall be admitted free of import duties and taxes, within the limits and under the conditions laid down by the competent authorities of the Member States:

- a) donations to reigning sovereigns and heads of state;
- (b) goods intended for use or consumption during their official stay in the customs territory of the Community by the reigning sovereigns and heads of state of third countries, as well as by officials officially representing them. However, this exemption may be subject to the condition of reciprocity by the importing Member State.

2. The provisions of the first paragraph shall also apply to persons enjoying, at the international level, prerogatives similar to those of a reigning sovereign or a head of State.

### **CHAPTER VIII: Fuels and lubricants in land motor vehicles**

#### **Article 86: Conditions of duty-free admission**

1. The following shall be admitted free of import duties and taxes, subject to Articles 93, 94 and 95:

- (a) the fuel contained in the normal tanks of passenger motor vehicles, commercial motor vehicles and motorcycles entering the customs territory of the Community;

(b) the fuel contained in portable tanks on board passenger motor vehicles and motorcycles up to a limit determined by national legislation.

2. For the purposes of paragraph 1, the following definitions shall apply:

(a) "**commercial motor vehicle**" means any motorized road vehicle (including tractors with or without trailer) which, according to its type of construction and equipment, is fit for and intended for transport with or without remuneration for the transport,

- of more than nine people, including the driver,

- Of goods,

(b) as well as any special purpose road vehicle other than the transport itself;

(c) '**passenger motor vehicle**' means any motor vehicle that does not meet the criteria set out in point (a);

(d) '**normal tanks**' means,

I. Tanks permanently affixed by the manufacturer to all motor vehicles of the same type as the vehicle concerned and whose permanent arrangement allows the direct use of the fuel, both for the traction of the vehicles and, where appropriate, for the operation during transport, refrigeration systems and other systems,

II. Gas tanks adapted to vehicles, with engines, which allow the direct use of gas as fuel, as well as tanks adapted to other systems that can be fitted to the vehicle,

III. Tanks permanently affixed by the manufacturer to all containers of the same type as the container concerned and whose permanent arrangement allows the direct use of the fuel for the operation, during transport, of the refrigeration systems and other systems of which are equipped with special purpose containers;

(e) '**special purpose container**' means any container fitted with devices specially adapted for refrigeration, oxygenation, thermal insulation or other systems.

#### **Article 87: Quantities admitted free of duty**

Member States may limit the quantity of fuel admitted duty-free:

(a) for commercial motor vehicles engaged in international transport to their customs area, provided that such transport is carried out by persons residing in that area.

(b) for passenger motor vehicles belonging to persons residing in the customs area.

#### **Article 88: Prohibitions**

1. Fuels admitted free of duty under sections 92, 93 and 94 may not be used in a vehicle other than the vehicle in which they were imported, nor be removed from the vehicle, nor be stored unless for necessary repairs to the said vehicle, nor to be assigned for a consideration or free of charge by the beneficiary of the relief.

2. Failure to comply with the provisions of paragraph 1 shall result in the application of import duties and taxes on the products concerned, at the rate in force on the date on which it is applied, according to the description and on the customs value recognized or accepted at that date by the competent customs authorities of the Member States.

## **CHAPTER IX Materials for the Construction, Maintenance or Decoration of Memorials or Cemeteries of Victims of War or Terrorist Acts**

### **Article 89: Conditions of duty-free admission**

Goods of all kinds imported by organizations approved for that purpose by the competent authorities of the Member States for the purpose of being used for the construction, maintenance or the decoration of cemeteries, burials and memorials of victims of war or terrorist acts buried in the customs territory of the Community shall be admitted free of duty.

## **CHAPTER X: Coffins, Funeral Urns and Funeral Ornaments**

### **Article 90: Conditions of duty- free Admission**

The following are admitted free of import duties and taxes:

- (a) coffins containing bodies and urns containing the ashes of deceased persons and the flowers, crowns and other ornaments normally accompanying them;
- (b) Flowers, wreaths and other ornaments brought by persons residing in a third country who go to funerals or come to decorate graves situated in the customs territory of the Community, provided that the nature or quantity of these imports do not reflect any commercial intent;
- c) The sacerdotal ornaments, the products, the instruments and objects used for the celebration of religious group.

## **CHAPTER XI: Materials and products for certain privileged technical uses**

### **Article: 91: Conditions of duty-free admission**

1. Goods and technical products imported agencies responsible for the safety of air navigation of the Member States or on their behalf, shall be admitted free of import duties and taxes.
2. In order to benefit from this relief, a certificate signed by the persons in charge certifying that the imported materials and products are intended for the execution of the commitments subscribed by the agencies and they will be taken into account immediately in their subject accounts must be attached to each customs import declaration.

### **TITLE III: RELIEF FROM EXPORT DUTIES AND TAXES**

#### **CHAPTER I: Postal items**

##### **Article 92: Conditions of duty-free admission**

Relief from export duties and taxes shall be granted on consignments sent to their addressees by post or postal parcels and consisting of goods the aggregate value of which does not exceed an amount fixed by national regulations.

#### **CHAPTER II: Domestic animals exported on the occasion of a transfer of agricultural holdings from the Community to a third country**

##### **Article 93: Duty free Admission**

1. Domestic animals forming part of the livestock of an agricultural undertaking which, having ceased its activity in the customs territory of the Community, transfer its holdings to a third country shall benefit from a relief from export duties.
2. The relief referred to in paragraph 1 shall be limited to domestic animals the number of which is commensurate with the nature and importance of that agricultural undertaking.

#### **CHAPTER III: Products obtained by agricultural producers from lands located in the Community**

##### **Article 94: Products admitted free of duty**

1. Relief from export duties shall cover agricultural or livestock products obtained in the customs territory of the Community from adjacent land held as landlords or tenants by agricultural producers having their place of business in a third country in the immediate vicinity of the customs territory of the Community
2. To benefit from the provisions of paragraph 1, products derived from domestic animals must come from animals originating in the third country concerned or fulfilling the conditions required for their free movement.

##### **Article 95: Limitations**

1. The relief referred to in Article 94 (1) shall be limited to products which have not undergone any other treatment than that normally used after harvesting or production.
2. The relief shall be granted only for products introduced in the third country concerned by the agricultural producer or on his behalf

#### **CHAPTER IV: Seeds exported by agricultural producers for use on properties located in third countries**

#### **Article 96: Products admitted free of duty**

Seed intended to be used for the exploitation of property located in a third country in the immediate vicinity of the customs territory of the community and operated, as owners or tenants, by agricultural producers having their place of business in that territory in the immediate vicinity of the third country concerned shall benefit from the relief from export duty.

#### **Article 97: Limitations**

The relief referred to in article 96 is limited to the quantities of seed required for the purpose of operating the property.

It is only granted for seeds directly exported outside the customs territory of the community by the agricultural producer or on his behalf.

### **CHAPTER V: Fodder and feed accompanying animals during exportation**

#### **Article 98: Products admitted free of duty**

Fodder and food of all kinds placed on board the means of transport used for the transport of animals from the customs territory of the Community to a third country for the purpose of being distributed to them shall be granted relief from export duty.

### **CHAPTER VI: Implementing rules**

#### **Article 99: Jurisdiction of National Regulations**

Without prejudice to the provisions of the above sections, the cases and conditions under which a relief from export duties and taxes is granted shall be determined by the national regulations of each Member State.

## **TITLE IV: GENERAL AND FINAL PROVISIONS**

### **CHAPTER I: GENERAL PROVISIONS**

#### **Article 100: Fees and Other Internal Taxes**

Relief from import duties and taxes shall not constitute an obstacle to the collection in Member States of:

- a) internal taxes or other charges of whatever nature, whether imposed on or after importation, provided that they do not exceed those directly or indirectly imposed on products of similar Community or national origin;
- b) fees and charges other than customs duties, levied on or in connection with importation, provided that they are limited to the approximate cost of the services rendered and do not constitute protection of products of Community or national origin or of taxes of a fiscal nature on imports.

#### **Article 101: Quantitative Restrictions**

1. The provisions of Article 100 above shall apply to goods declared for home use or free circulation directly from third countries
2. Goods which may be imported free of duties and taxes in accordance with this Regulation shall not be subject to quantitative restrictions.

#### **Article 102: Prohibitions**

1. Personal property and capital goods for investment, objects of an educational, scientific or cultural nature and scientific instruments or apparatus, as well as tools, merchandise addressed to charitable and philanthropic organizations and other merchandise of any kind that have been admitted under the conditions laid down in this Regulation may not be loaned, leased or assigned for remuneration or free of charge without the prior authorization of the competent authorities of the Member States.
2. In the case of a loan, lease or transfer to an establishment or body, to any legal or natural person, entitled to the relief under this Regulation, the relief shall be retained provided that the latter uses the object, the instrument or the apparatus or the tool or the goods for purposes which gave rise to the grant of that relief.
3. In all other cases, the completion of the loan, lease or assignment is subject to prior payment of import duties and taxes at the rate in effect on the date of the loan, lease or assignment, according to the species and on the basis of the customs value recognized or accepted at that date by the competent authorities of the Member States.

#### **Article 103: Assignment to a Use**

Where the relief from import duties and taxes is provided for the use to be made of the goods by the consignee, only that relief may be granted by the competent authorities of the Member State in whose territory the goods in question are assigned for this purpose.

#### **Article 104: Customs Surveillance**

1. Goods released for consumption or free circulation with relief from import duties and taxes on account of their particular purpose shall remain under customs supervision, exercised under the conditions laid down in Article 270 of the ECOWAS Customs Code;
2. The competent authorities of the Member States shall take all appropriate measures to ensure that goods released for consumption or free circulation and free of import duties and taxes by reason of their intended use by their addressee may not be used for other purposes without the payment of the import duties and taxes relating thereto, except where such change of use occurs in accordance with the conditions laid down in this Regulation.

#### **Article 105: Cumulative benefit of relief**

Where the same person simultaneously qualifies for the grant of an exemption from import duties and taxes or export duties and taxes under different provisions of this Regulation, the provisions in question shall apply concurrently.

#### **Article 106: Proof of fulfillment of Conditions**

Where this Regulation provides that the granting of a relief is conditional on the fulfillment of certain conditions, proof that those conditions have been fulfilled must be provided by the concerned party to the satisfaction of the competent authorities.

#### **Article 107: Multilateral and Bilateral Conventions**

1. The provisions of this Regulation shall not preclude the granting by Member States of:

(a) reliefs resulting from the application of either the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 or other consular conventions, or the New York Convention of 16 December 1969 on Special Missions;

(b) reliefs subject to customary privileges granted under international agreements or headquarters agreements to which a contracting party is a third country or an international organization, including reliefs granted at international meetings;

(c) reliefs subject to customary privileges granted under international agreements concluded by all Member States and creating an institution or organization of international law of a cultural or scientific nature;

(d) reliefs covered by customary privileges and immunities granted under cultural, scientific or technical cooperation agreements with third countries;

(e) special reliefs established under agreements with third countries providing for joint actions for the protection of persons or the environment;

(f) special reliefs established under agreements with neighboring third countries, justified by the nature of frontier trade with those countries;

(g) reliefs granted under reciprocal agreements with third countries party to the Convention on International Civil Aviation (Chicago 1944) for the implementation of Recommended Practices 4.42 and 4.44 of Annex 9 to this Convention (Eighth Edition - July 1980).

2. Where an international convention not falling within one of the categories referred to in paragraph 1, to which a Member State intends to subscribe, provides for the granting of reliefs, that Member State shall submit to the Commission a request for these reliefs by communicating all the necessary information.

3. The communication referred to in paragraph 2 shall not be required where the international agreement in question provides for the granting of reliefs which do not exceed the limits laid down in this Regulation.

### **Article 108: Application modalities**

Member States shall adopt regulatory provisions to supplement the implementation modalities of this Regulation.

## **CHAPTER II: FINAL PROVISIONS**

### **Article 109: Entry into Force**

1- This Regulation comes into effect upon signature by the Chairman of the Council of Ministers.

2- Upon its entry into force, this Regulation will repeal all previous provisions to the contrary.

3- This Regulation shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its date of signature by the Chairman of the Council of Ministers. It will also be published by each Member State in its Official Journal within the same period.

**DONE AT ABUJA THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



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**H.E SHIRLEY AYORKOR BOTCHWEY**

**CHAIRPERSON**

**FOR COUNCIL**

**EIGHTY-SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF  
MINISTERS**

Abuja, 9 - 10 December 2021

**REGULATION C/REG.16/12/21 ON THE DEFINITION OF THE LIST OF  
CATEGORIES OF GOODS CONTAINED IN THE ECOWAS TARIFF AND  
STATISTICAL NOMENCLATURE BASED ON THE 2022 VERSION OF THE  
HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM  
NOMENCLATURE****THE COUNCIL OF MINISTERS,**

**Mindful** of Articles 10, 11 and 12 of the ECOWAS Revised Treaty creating the Council of Ministers and defining its composition and functions

**Mindful** of the Decision A/DEC.17/01/06 of 12 January 2006 adopting the ECOWAS Common External Tariff;

**Mindful** of the Supplementary Act A/SA.1/06/09 of 20 June 2009 amending the Decision of 12 January 2006 A/DEC.17/01/06 adopting the ECOWAS Common External Tariff;

**Mindful** of Supplementary Act A/SA.1/12/16 of 16 December 2016 on the creation, organization and functioning of the ECOWAS-UEMOA joint committee for the management of the ECOWAS Customs Union.

**MINDFUL** of Article 9 of the Supplementary Act A/SA1/2/16 of 17 December 2016 on the enhancement of the powers of the ECOWAS Parliament which sets out the areas in which the opinion of the Community Parliament is compulsorily required during the process of adoption of Community texts;

**MINDFUL** of the Supplementary Act A/SA.2/12/17 of 16 December 2017 adopting the ECOWAS Customs Code;

**NOTING** that the ECOWAS Tariff and Statistical Nomenclature is based on the Harmonized Commodity Description and Coding System Nomenclature

**CONSIDERING** the Recommendation of the Customs Cooperation Council of 28<sup>th</sup> June 2019 on the amendments to the Harmonized System nomenclature;

**DESIRING** to implement the provisions of articles 35, 36 and 37 of the ECOWAS Revised Treaty relating to the establishment of ECOWAS Common External Tariff and concerning all goods imported from third countries into member states and in this regard define the list of categories of goods contained in the ECOWAS Tariff and Statistical Nomenclature (TSN)

**ON** the recommendation of the meeting of the ECOWAS-UEMOA joint committee for the management of the ECOWAS Customs Union held in Accra, Ghana from 8 to 10 November, 2021;

**ON** the recommendation of the 6th meeting of the Ministers of Finance of ECOWAS member states held in Accra, Ghana on 12 November, 2021,

**UPON THE OPINION** of the Community Parliament during its Second Ordinary Session held in Abuja, Nigeria from 30<sup>TH</sup> November to 18<sup>TH</sup> December 2021;

## **ENACTS**

### **Article 1: Definitions**

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

**Community** means the Economic Community of West African States whose creation is reaffirmed by Article 2 of the revised treaty signed at Cotonou on July 23, 1993

**ECOWAS** means Economic Community of West African States, whose creation is reaffirmed in Article 2 of the Revised Treaty signed in Cotonou on July 24th, 1993.

**ECOWAS Tariff and Statistical Nomenclature** means the common Customs nomenclature based on the Harmonized Commodity Description and Coding System Nomenclature, adopted by the Community.

**Harmonized Commodity Description and Coding System or Harmonized System** means the International Convention of the Harmonized Commodity Description and Coding System, adopted by the Customs Co-operation Council in 1988.

### **Article:2: Purpose**

The objective of this regulation is to define the list of categories of goods contained in ECOWAS Tariff and Statistical Nomenclature (TSN) in accordance with the 2022 version of the Harmonized Commodity Description and Coding System (HS) Nomenclature.

### **Article 3: Adoption of the 2022 version of the ECOWAS Tariff and Statistical Nomenclature**

The ECOWAS Tariff and Statistical Nomenclature (TSN) based on the 2022 version of the Harmonized Commodity Description and Coding System nomenclature annexed to this regulation is hereby adopted. The annex is an integral part of this regulation.

### **Article 4: Classification of categories of goods in the Common External Tariff**

The list of goods in the Tariff and Statistical Nomenclature of the Common External Tariff (CET) of the Economic Community of West African States (ECOWAS) are classified in the different categories in the annex referred to in Article 3 above.

#### **Article 5: Extension of the Tariff and Statistical Nomenclature**

The Tariff and Statistical Nomenclature of the Common External Tariff (CET) of the Economic Community of West African States, based on the Harmonized Commodity Description and Coding System (HS) Nomenclature, is extended from 06 digits to 10 digits.

#### **Article 6: Declaration of goods**

Goods imported or exported in member states are to be declared in accordance with the ECOWAS Tariff and Statistical Nomenclature.

#### **Article 7: Final Provisions**

- a. This Regulation C/REG.16/12/21 enters into force upon signature by the Chairperson of the Council of Ministers.
- b. This Regulation repeals Regulations C/REG/1/06/13 of 23 June 2013 and C/REG/18/12/16 of 18 December 2016.
- c. This Regulation C/REG.16/12/21 shall be published by the Commission in the Official Journal of the Community within thirty (30) days of the date of its signing by the Chairman of the Council of Ministers. It will also be published by each Member State, in its official journal, within thirty (30) days, after notification of the same by the Commission.

**DONE AT ABUJA, ON THIS 10<sup>TH</sup> DECEMBER 2021**



**H.E SHIRLEY AYORKOR BOTCHWEY.**

**THE CHAIRPERSON**

**FOR COUNCIL**



**EIGHTY-SEVENTH ORDINARY SESSION OF THE ECOWAS  
COUNCIL OF MINISTERS**

**Abuja 9 - 10 December 2021**

**REGULATION C/REG.17/12/21 ON PROCEDURES FOR THE CERTIFICATION  
AND RECOGNITION OF ORIGIN OF PRODUCTS THE ECONOMIC COMMUNITY  
OF WEST AFRICAN STATES**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Articles 3, 35, 36, 38 and 54 of the ECOWAS Treaty on the aims and objectives of the Community, the trade liberalization scheme, customs law, the Community tariff regime and the creation of economic union respectively;

**MINDFUL** of Supplementary Protocol A/SP.1/06/06 of 14<sup>th</sup> June 2006 amending the said Treaty;

**MINDFUL** of Supplementary Act A/SA.2/12/17 Adopting the ECOWAS Customs Code of 16<sup>th</sup> December 2017

**MINDFUL** to Supplementary Act A/SA.2/01/10 of 16<sup>th</sup> February 2010 on electronic transactions in the ECOWAS region

**MINDFUL** of Supplementary Act A/SA.6/12/18 of 22<sup>nd</sup> December relating to mutual assistance and cooperation between the customs administration of ECOWAS member States and the collaboration between them and the ECOWAS Commission in customs matters

**MINDFUL** of the Decision A/DEC.6/7/92 of 29<sup>th</sup> July 1992, amending Decision A/DEC.1/5/83 relating to the adoption and implementation of a single trade liberalization scheme for industrial products originating from ECOWAS states;

**MINDFUL** of Supplementary Act A/SA.7/12/18 of 22<sup>nd</sup> December 2018 fixing community rules of origin and procedures applicable to goods originating in the Economic Community of West African States (ECOWAS).

**TAKING INTO ACCOUNT** the Ministerial Decision of the World Trade Organization (WTO) of 2015 in Nairobi, aimed at establishing simple and transparent rules of origin, to facilitating market access for developing countries (LDCs));

**BEARING IN MIND** the Guidelines of the Authority of Heads of State and Government issued in Lomé on 10<sup>th</sup> December 1999, on the need to coordinate the integration programs of ECOWAS and the West African Economic and Monetary Union;

**TAKING INTO ACCOUNT** the recommendations and instructions of the sixteenth (16<sup>th</sup>) meeting of the ECOWAS/UEMOA Joint Technical Secretariat in September 2017, on the need to harmonize the legal texts relating to the application of preferential tariffs in the community.

**CONSIDERING** that, generally, any request for preferential tariff treatment must be based on a proof of origin which must be submitted, on request, to the customs authorities of the importing country.

**CONSIDERING** that there are various systems for the issuance of a proof of origin, including certification of origin by a competent authority of the exporting Member State and the self-certification of origin systems by an Authorized Exporter, that considering the increasing volume of preferential trade and taking into account the need to facilitate origin-related procedures, self-certification of origin by an approved exporter shall be used to the maximum extent possible, while taking into account the specific aspects of the national trading environment

**CONVINCED** of the need to simplify and secure export formalities and thus support the competitiveness of companies in the Region whilst ensuring a constant level of confidence

**CONSIDERING** that in line with the revised Kyoto Convention, facilitation measures should be encouraged, while ensuring compliance with the necessary conditions for customs purposes

**CONSIDERING** that each Member State must find a balance between trade facilitation and customs control requirements. Furthermore, the Community must take into account national and regional capacities and the specific characteristics of the different trade sectors in order to find the right balance between liberalization and control in order to manage self-certification in a harmonious and secure manner.

**FOLLOWING VALIDATION** by the meeting of experts held in Abidjan from 24<sup>th</sup> to 28<sup>th</sup> May 2021;

**FOLLOWING THE APPROVAL OF THE ECOWAS MINISTERS OF FINANCE** held in Accra on 12<sup>th</sup> November 2021

**UPON THE OPINION of the ECOWAS PARLIAMENT** at its Second Ordinary Session held in Abuja from 30<sup>th</sup> November to 18<sup>th</sup> December 2021

## ENACTS

### CHAPTER I: GENERAL PROVISIONS

#### ARTICLE 1: DEFINITION

**"Rules of origin"** refers to the specific provisions established by national or community legislation or international agreements which are applied by a country to determine the origin of goods, and which are to be applied for the purpose of granting tariff preferences.

**"Commission"** means the Commission of the Economic Community of West African States whose creation is reaffirmed by Article 2 of the Revised Treaty signed at Cotonou on July 23, 1993;

**"Certification of origin"** refers to a series of procedures put in place to establish the originating status of goods by presenting a proof of origin;

**"Self-certification of origin"** is a type of certification of origin that uses a self-issued declaration of origin or certificate of origin to declare or affirm the originating status of goods;

**"Proof of origin"** refers to a document or certificate (paper or electronic) which serves as evidence that the goods to which it refers meet the criteria of origin under the applicable rules of origin. It may be a certificate of origin, a self-issued certificate of origin or a declaration of origin;

**"Certificate of origin"** is a specific form, in paper or electronic format, in which the governmental authority or body empowered to issue the certificate certifies the originating status of the goods to which the certificate refers in accordance with the applicable rules of origin;

**"Invoice declaration of origin"** means a declaration of the originating status of the goods made out by the Approved Exporter (producer, manufacturer, and trader) on the commercial invoice;

**"Origin criteria"** means conditions relating to the production of goods which must be fulfilled for the originating status of the goods to be established according to the applicable rules of origin;

**"Ex works price"** The price paid for the product to the manufacturer, in whose enterprise the last working or processing took place, including the value of all the materials used and after deduction of any internal taxes which are or may be refunded when the product obtained is exported;

**"Approved Exporter"**: an exporter who has been approved by the national competent authority and can establish an invoice declaration of origin or on any other commercial document.

#### ARTICLE 2: PURPOSE

This Regulation sets the procedures and conditions for the establishment of proof of Community origin of products in accordance with the provisions of the

Supplementary Act A/SA.7/12/18 of 22<sup>nd</sup> December 2018, fixing the Community rules of origin and the procedures applicable to goods originating in the Community.

## **CHAPTER II: PROCEDURE FOR THE RECOGNITION OF THE COMMUNITY ORIGIN STATUS OF PRODUCTS**

### **Article 3: Body in charge of recognition of Community origin of products**

The recognition of Community origin of a product shall be established by the competent authority on a proposal from a National Recognition of Community Origin Committee (NRCOC) established for that purpose.

### **Article 4: Composition of the National Recognition of Community Origin Committee**

I-The representatives of the following Ministries and institutions shall be members of the National Recognition of Community Origin Committee:

- a) Ministry of Trade;
- b) Ministry of Industry;
- c) Ministry of Finance
- d) Customs Service;
- e) ECOWAS National Unit;
- f) Chamber of Commerce and Industry;
- g) Any other structure or institution deemed useful.

II-The Committee shall be chaired by the representative of the national authority designated to grant such recognition of origin.

### **Article 5: Review of application and recognition of the Community origin of products**

1. Companies wishing to benefit from the Community preferential tariff treatment shall complete applications form for recognition of Community origin, a template of which is attached as Annex 1, and submit them to the National Recognition of Community Origin Committee.
2. In accordance with a pre-defined periodicity not exceeding thirty (30) days, the Chairman of the National Recognition of Community Origin Committee convenes a meeting of the members for the examination of the applications received and comes up with recommendations.
3. The company registration number and the Identification number of the originating product are issued by the competent authority in accordance with articles 6 and 7 below.

4. Products which meet Community origin criteria shall be the subject of a recommendation for recognition of Community origin by the NRCOC to the competent authority of the Member States.

#### **Article 6: Notification of the list of community products**

1. Member States shall send the list of the companies and their products recognized as originating in the Community and the dossiers relating thereto either by post or by electronic means to the Commission.
2. The Commission shall notify within 30 days of receipt of the approval decision sent by the issuing Member State, the list of companies and their originating community products either by post or by electronic means.
3. The publication on the website of decisions and lists of companies and products recognized as originating in the community by the Commission shall be considered as a notification.

#### **Article 7: Company Registration Number**

The company whose products are originating in the Community, shall be given a registration number of seven (7) numerical digits by the competent authority. The first three (3) digits represent the geographical code of the country as defined by the United Nations; the last four (4) digits represent the company's serial number in the Member State.

#### **Article 8: Identification number of the originating product**

Products recognized as originating in the Community shall each be assigned an identification number of eleven (11) numerical digits by the competent authority in accordance with the table below. The first seven (7) numerical digits represent the company registration number. The next two (2) numerical digits represent the serial number of the product recognized as originating.

The last two (2) numerical digits represent the last two digits of the year of recognition of Community origin.

<b>IDENTIFICATION NUMBER OF PRODUCT (11 numerical digits)</b>			
<b>Company registration number (7 numerical digits)</b>		<b>Product serial number</b>	<b>Year</b>
<b>Country code (3 numerical digits)</b>	<b>Company serial number (4 numerical digits)</b>	<b>(2 numerical digits)</b>	<b>(2 numerical digits)</b>

### **CHAPTER III: CERTIFICATION OF COMMUNITY ORIGIN**

#### **Article 9: Types of certifications of Community Origin**

Products originating in the Economic Community of West African States (ECOWAS), are eligible for preferential tariff upon presentation of:

- a) Either a certificate of Community origin issued by the relevant authority of the exporting Member State; or
- b) A Community invoice declaration of origin issued by any exporter who has the status of an Approved Exporter (AE);

#### **Article 10: Conditions for establishing the Community certificate of origin**

1. The Community certificate of origin may be established either on ISO/A4 paper format (210 x 297 mm) and green color (cf. Annex 5), or in an electronic version.
2. The Community certificate of origin paper or electronic format shall be issued by the competent national authority designated by the Member State.
3. Officials of institutions of Member States empowered to issue or endorse the paper format of the certificate of origin shall clearly indicate their signatures, name and function on this document.
4. Electronic certificate of origin is exchanged in XML format and shall be digitally signed by the competent customs Administration responsible for its transfer to the community platform dedicated to the electronic exchange of the certificate of origin.

#### **Article 11: Certificate of origin of replacement**

1. Where originating goods are placed under the control of the customs authority of one of the Member States, the certificate of origin can be replaced by one or more certificate of replacement in order to allow the concerned goods or part of them to be sent elsewhere in other Member States. A certificate of origin of replacement is therefore issued by the customs authorities under whose control the goods were placed.
2. The customs office shall indicate on the certificate of origin of replacement the words "replacement".
3. A copy of the original certificate of origin initially issued by the Competent Authority shall be attached to the certificate of origin of replacement.

#### **Article 12: Validity of the Community certificate of origin**

1. The Community certificate of origin (paper format) must not contain any scratching or overwriting. Any changes must be made by crossing out the incorrect information and, where appropriate, adding the appropriate information. Any such amendment must be approved by the person who drew up the certificate and endorsed by the customs authorities of the issuing Member State.
2. The Community certificate of origin shall be completed by printing. Only names and signatures can be handwritten. There must be no apostille or line

spacing. When the box is not completely filled, it is completed by a horizontal line.(for paper version);

3. Only one original copy of this certificate shall be issued. However, copies may be attached and marked "copy". If the original is lost, a copy marked "duplicate" may be issued.
4. The products shall be designated according to the ECOWAS Tariff and Statistical Nomenclature and commercial names with sufficient detail to enable them to be identified.
5. The certificate of origin covers only one product.
6. This certificate of origin shall be valid for twelve (12) months from its date of issuance.

#### **ARTICLE 13: Conditions for establishing an invoice declaration of origin**

1. The declaration of origin is a formal mention affixed by the Approved Exporter on an invoice which clearly identifies the products concerned and which is transmitted to the importing customer. It certifies the Community origin of the exported products and shall have the same legal value as the certificate of origin issued by competent authority in the exporting Member State.
2. It is used by the consignee of the products to support the application for preferential tariff treatment. The Approved Exporter shall issue the recognition of the origin on the invoice declaration by typing or printing on the invoice the origin declaration, which appears in Annex 2 to this Regulation, using one of the language versions set out in that Annex.
3. If the declaration is handwritten, it must be handwritten in ink and in block letters. The Community invoice declaration of origin shall bear the original handwritten signature of the exporter.

#### **CHAPTER IV: THE APPROVED EXPORTER**

##### **Article 14: Status of Approved Exporter**

1. The status of approved exporter is a customs facility given to an exporter on condition that he offers to the satisfaction of the customs authorities, all guarantees to confirm the originating status of the products and that all the other criteria of origin are met and community export criteria.
2. The customs authorities shall issue to the approved exporter a customs authorization number which shall appear on the origin declaration or on the declaration of Community origin.
3. This number follows this format: ECW + Member State code (3 digits) + number assigned by the customs office (4 digits) + initial of the issuing Member State (ECW+000 /0000+ EM).

4. The customs authorities of the exporting Member State may also authorize any exporter who frequently exports products of Community origin to make invoice declarations, irrespective of the value of the products concerned.
5. The customs authorities shall submit the granting of Approved Exporter status subject to any conditions they deem appropriate.
6. Any operator in the Community holding the status of Authorized Operator or Authorized Economic Operator under the conditions in Articles 39 to 41 of the ECOWAS Customs Code and having obtained the authorization provided for in Article 15 below shall be able to certify the Community origin of its products on its invoices.

#### **Article 15: Conditions to grant authorization as an Approved Exporter**

1. An Approved Exporter's authorization is open to all operators who ship goods of Community origin and who are established in the customs territory of the Community
2. To obtain Approved Exporter (AE) authorization, the established operator must submit an application:
  - a. only once;
  - b. for all categories of goods valid throughout the Community customs territory
  - c. at a single customs office designated in each Member State.
3. The Approved Exporter's authorization is valid throughout the customs territory of the Community and therefore allows the export of products of Community origin in all Member States.
4. The customs authorities shall monitor the use of the authorization by the approved exporter.
5. The customs authorities may revoke the authorization at any time. They must do so where the approved exporter no longer offers the guarantees referred to in paragraph 1, no longer fulfills the conditions referred to in paragraph 2 or otherwise makes an incorrect use of the authorization.
6. In the event of revocation of the authorization, a notification is sent to the Approved Exporter.

#### **ARTICLE 16: Modalities for issuing Approved Exporter Authorization**

1. After receiving the application for approved exporter authorization, the customs authorities carry out an admissibility examination to ensure that all the conditions for accepting the application are met.
2. The application review for clearance enables the customs authorities to verify that the operator:
  - a. masters the rules of origin applicable to the products he is exporting;

- b. has knowledge of the documents and submits them at the request of the customs authorities to prove the originating status of the exported goods
3. When reviewing the application, the customs authorities:
  - a. verify that all sections of the application form are correctly filled;
  - b. ensure in particular that the rules of origin indicated by the operator are correct ( Cf. Annexe3).
  - c. identify the supporting documents that the operator must possess.
4. A copy of the issued authorization is given to the Approved Exporter, the second copy is sent to the ECOWAS Commission for notification to the other Member States of the Community and the third copy is kept by the issuing customs office with the Approved Exporter's application for authorization and all other related documents.
5. The processing of an Authorized Exporter authorization application should not exceed a period of thirty (30) days in accordance with art 44(3) of the ECOWAS Customs Code as soon as the operator provides customs authorities the information necessary for the proper investigation of the application. (cf. Annex 3).

#### **ARTICLE 17: Updating the approved exporter's authorization**

1. The status of Authorized Exporter is valid until the revocation by the customs authority.
2. However, in line with the commitments in the application for authorization, the customs authorities that issued the clearance must be notified of any change in the operator's activities and flows likely to have an impact on the Community origin of his products. Similar rules apply to new products not mentioned on the initial list.
3. The application for update shall be made in writing or by e-mail to the authorities which issued the clearance within a period of thirty (30) days;
4. Following favorable review, an amendment to the authorization is issued by the customs authorities which issued the initial authorization and a copy is given to the holder and sent to the Commission for notification to member States.
5. This amendment takes the same form as the initial authorization; it is numbered and indicates the date on which the initial clearance was issued and the date on which the authorization was updated.

## **ARTICLE 18: Liabilities and obligations of the Approved Exporter**

1. The Approved Exporter is responsible for the accuracy of the information provided in the application for the granting of Approved Exporter authorization and of the information provided on the invoice declaration.
2. In the event of any doubts based on the invoice declaration issued by the Approved Exporter, the Member State of import shall request a verification of the information either directly from the Approved Exporter who will respond to this request, or from the customs administration of the Member State in which the Approved Exporter is located, in that case, the customs administration of the Member State of export will respond directly to the verification request.
3. The Approved Exporter who establishes an invoice declaration is required to keep a copy of the proof of origin and supporting justification documents of origin for five (5) years in accordance with article 36 of the ECOWAS Customs Code.

## **CHAPTER V: OTHER RELATED PROVISIONS**

### **ARTICLE 19: Supplier's declaration for originating community goods**

1. The supplier's declaration, attached in Annex 4, is a document proving the origin, which supports the issuance of a proof of origin, either the certificate of origin issued by the competent authority, or the invoice declaration of origin.
2. The exporter must have the supplier's declaration certifying that the products supplied are originating.

### **Article 20: TRANSITIONAL PROVISIONS**

Member States may transmit the list of approved enterprises and products and the relevant files containing the old form during a transitional period of one (1) year from the date of signature of this Regulation,

## **CHAPTER VI: Final provisions**

### **Article 21:**

The attached standard form replaces the old origin recognition application forms.

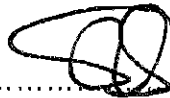
### **Article 22:**

This Regulation abrogates and replaces all previous contrary provisions, in particular Regulation C/REG.3/4/02 of 23<sup>rd</sup> April 2002 on the approval procedure for originating products under the ECOWAS Trade Liberalization Scheme and Regulation C/reg.4/4/02 on the adoption of a certificate of origin for products originating in the Community.

**Article 23:**

This Regulation shall take effect from the date it is signed by the Chairman of the Council of Ministers and shall be published by the Commission in the Official Gazette of the Community within thirty (30) days. It will also be published by each Member State in its Official Gazette, thirty (30) days after notification by the Commission.

**DONE AT ABUJA THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



**H.E SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**THE COUNCIL**

## **ANNEXE 1: EXPLANATORY NOTE ON FILLING THE APPLICATION FORM FOR RECOGNITION OF ECOWAS COMMUNITY ORIGIN**

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The filling of the standard application to be provided by the companies and to be presented to Member States for the examination of the applications for recognition of Community origin of ECOWAS products is done as indicated below, by heading, respecting the references.

### **I. NATURE OF THE COMPANY**

This category focuses on:

#### **1.1 Corporate identity :**

- Name or company name, registration N° in the Trade Register
- Address of the registered office, with postal office box, Telephone N°, Fax, E-mail and website
- Address of production sites (production units and possibly that of subsidiaries and branches), with post office box, Telephone N°, Fax, E-mail and website.

#### **1.2 Sector of activity and branch based on the International Standard Industrial Classification of all Economic Activities (ISIC)**

#### **1.3 Legal status** (mention the legal status and attach copies of legal statutes)

#### **1.4 Composition of the management body** (mention the composition of the management body: Board of directors, Executive management, Management ...)

#### **1.5 Share capital and distribution** (mention the amount, in value, of the share capital and indicate in percentage the share of ECOWAS Member States nationals and the share of foreign countries nationals)

#### **1.6 Benefit granted to the enterprise in the Member State of establishment and duration**

#### **1.7 Approval number under the Trade Liberalization Scheme** (the number is to be supplied only by already registered enterprises)

### **II. NATURE OF THE MANUFACTURED PRODUCTS FOR WHICH COMMUNITY ORIGIN RECOGNITION IS SOUGHT**

#### **2.1 Listing of products based on the terms of the ECOWAS customs nomenclature and mentioning their trade name**

The products for which approval is required are listed in the terms of the description of goods under the tariff and statistical nomenclature based on the Harmonized Commodity Description and Coding System (HS) – ECOWAS CET.

It is required to provide any technical documentation that will help in verifying the tariff classification and if possible, provide a sample of the manufactured product.

## 2.2 Details of the manufactured products under the related headings and subheadings of the ECOWAS nomenclature

The details to be provided under this section relates to the tariff heading under which products (or group of products) fall and the subheading to which the products are connected.

Example: the double concentrated tomato paste falls under subheading 2002 « Prepared or preserved tomatoes ». It is connected to subheading 2002.90.20.00 « -- Tomato concentrates packaged for retail sale ».

## 2.3 Trademark and sales labels used to market products (and all information needed to identify manufactured products)

- Listing and description of the types of marking (on the products themselves, and when technically possible, on the immediate packaging and shipping packaging) and mention models of self-adhesive stickers, if any;
- If this is the case, mention the different types of container and specify their capacity.

Example: The double concentrate tomato paste is marketed under the trade names « DIATAYE » and « BABS ». The specifications in terms of packaging are listed in the table below.

PRODUCT	TRADE NAME	PACKAGING
Tomato concentrates packaged for retail sale	Double concentrate tomato paste : - DIATAYE - BABS	Carton of 12 cans of 2kg
		Carton of 30 cans of 800kg
		Tray of 6 cans of 2kg
		Tray of 12 cans of 800kg

The products are packaged in metal cans. Cartons and paper pallets are used for the outer packaging as well as plastic rolls.

The following Information are printed on the packages « Manufactured by APAPA S.A », the « Net Weight » and contacts of the producing company (full address with website, E-mail ...).

**NB. : - The company is requested to fill only one of the form 3.5, 3.6 or 3.7 based on the criteria preferred to determine the origin.**

- Tables 3.2, 3.3 and 3.4 focusing on raw materials, consumable materials and packages respectively are to be filled only when using form 3.7 of the cost price to determine the value of non-originating products.

### **III. INFORMATION ON PRODUCTION**

#### **3.1 Description of the manufacturing process**

The description of the manufacturing process should help identify the various stages of incorporating the materials used during the period to obtain the products (or group of products).

This stage of filling the standard form is usually illustrated by a chart.

#### **3.2 Raw materials used to obtain manufactured products**

Table 1 of the template repeated under this section in the approval application standard form is filled for each product (or group of product) concerned.

The following information are to be provided:

- Year of reference
- Products obtained
- Description of raw materials (these are raw materials mainly used). The following specification is required for each raw material :
  - ✓ Origin (foreign or ECOWAS), and mentioning the suppliers identity for all community origin (ECOWAS),
  - ✓ ECOWAS customs nomenclature Number,
  - ✓ Quantities used,
  - ✓ Factory input value.

#### **3.3 Consumable materials used to obtain manufactured products**

Table 2 of the template repeated under this section in the approval application standard form should be filled for each product (or group of product) concerned.

The following information is to be provided:

- Year of reference
- Produits obtained
- Description of consumable materials (consumables that are mainly used should be specified). The following specification is required for each consumable materials :
  - ✓ Origin (foreign or ECOWAS), and mentioning the suppliers identity for all community origin (ECOWAS),
  - ✓ Number of the ECOWAS customs nomenclature,
  - ✓ Quantities used,
  - ✓ Factory input value.

#### **3.4 Packages used for packaging manufactured products for marketing**

Table 3 of the template repeated under this section in the approval application standard form should be filled for each product (or group of product) concerned.

The following information is to be provided:

- Year of reference
- Produits obtained
- Description of packages. The following specification is required for each packaging:
  - ✓ Origin (foreign or ECOWAS), and mentioning the suppliers identity for all community origin (ECOWAS),
  - ✓ Number of the ECOWAS customs nomenclature,
  - ✓ Quantities used,
  - ✓ Factory input value.

### **3.5- Form used to determine the origin of products wholly obtained**

These two sections « Finished products » and « **List of raw materials used** » of this form 3.5 of the template repeated under this section in the approval application standard form should be filled for each product (or group of product) concerned.

It should be noted that « List of raw materials », refers to « the main raw materials used to obtain the quantity of the finished Product or group of products for which approval is sought».

The following information should be provided under the section « Finished products »:

- Number of the tariff and statistical nomenclature (TSN N°)
- Tariff classification
- Trade name
- Quantity.

The following information should be provided under the section « List of raw materials used » for each material:

- Number under the tariff and statistical nomenclature (TSN N°)
- Tariff classification
- Trade name
- Origin
- Quantity.

### **3.6- Form used to determine the origin of products based on change in tariff classification**

The first step in filling this form 3.6 is to check the List of Exceptions to criteria of change in tariff classification in the ECOWAS CET nomenclature (ANNEXED to Regulation C/REG.1/07/04 on the determination of the list to the change on tariff classification criteria of ECOWAS). This three-column List, indicates the Tariff and Statistical number (TSN), and description of the product resulting from processing which cannot confer the origin.

The second step is to check the change of tariff classification under one of the first four digits of the tariff and statistical nomenclature (TSN) or tariff heading.

These two sections « Finished products » and « **List of raw materials used** » of this form 3.6 of the template repeated under this section in the approval application standard form should be filled for each product (or group of product) concerned.

It should be noted that « List of raw materials », refers to « the main raw materials used to obtain the quantity of the finished Product or group of products for which approval is sought».

The following information should be provided under the section « Finished products »:

- Number of the tariff and statistical nomenclature (TSN N°)
- Tariff classification
- Trade name
- Quantity.

The following information should be provided under the section « List of raw materials used » for each material:

- Number under the tariff and statistical nomenclature (TSN N°)
- Tariff classification
- Trade name
- Origin
- Quantity.

### 3.7 New: The method of calculating the value added criterion (ad valorem)

The value added sets the maximum percentage of non-originating materials that can be used in the manufacture of a product. The final product obtained is considered to be originating provided that the non-originating materials do not exceed a certain threshold.

$$\text{Calculation of the VNOM threshold (\%)} = \frac{\text{VNOM}}{\text{Ex-works price}} \times 100$$

The Value Of Non-Originating Materials (VNOM) used is based on the Free on Board (FOB) value. The maximum threshold of the VNOM used, based on the Free On Board (FOB) value does not exceed is 68% of the Ex works price.

## Annex 2: Invoice Declaration by the Approved Exporter

### French version

*L'expéditeur agréé des produits couverts par l'autorisation douanière de l'EA n° .xxx déclare que, sauf indication claire du contraire, que ces produits ont l'origine communautaire ...*

## English version

*The Approved Exporter of the products covered by customs authorization of the AE No xxx., declares that, except where otherwise clearly indicated, that, these products are of community origin.*

## Versão Portuguesa

*O Exportador Aprovado dos produtos abrangidos pela autorização aduaneira do EA n° xxx., declara que, salvo indicação em contrário, estes produtos são de origem comunitária.*

..... "1  
(Lieu et date) (Venue and date) (Local e data)

..... 2

*(Signature de l'expéditeur; par ailleurs, le nom de la personne qui signe la déclaration doit être indiqué en toutes lettres)*

*(the signatory's full name should be indicated )*

1

**(deve ser indicado o nome completo do signatário)**

## ANNEX 3: APPROVED EXPORTER'S (AE) APPLICATION FOR INVOICE DELARATION OF ORIGIN

### 1 Identity of the applicant:

Name, first name and registered office	
Trade registration number	
address	
e-mail	
Telephone	

Attention: The AE always relates to a number in the Trade register. The company concerned should apply for authorization for each of its producing subsidiaries. It should be able to tender all the supporting documents of origin where it would have obtained its AE's authorization.

### 2 Products concerned:

The product tariff classification (HS10) under the customs nomenclature should be indicated alongside the description and trade name.

Product tariff classification (HS10)	Product description and trade name

### 3 Member States:

The Approved Exporter can export throughout the community customs territory. He/she must indicate which member states he/she intends exporting to.

### 4 Acquisition criteria for Community origin:

Criteria to acquire origin are mentioned in the Supplementary Act fixing community rules of origin and procedures applicable to products originating in the Economic Community of West African States (ECOWAS).

*These criteria can be :*

- Criteria of wholly obtained products,
- Criteria of sufficient transformation or processing:  
Change of tariff heading or value of non-originating products used in the manufacture of the products.

### 5. Product manufacturing sites:

This information is to ensure compliance with the principle of territoriality which stipulates that products must have been manufactured on the community territory without interruption in the manufacturing process through transformation carried out outside ECOWAS and also helps to ensure compliance with the principle of non-acquisition of community origin of products manufactured in duty-free zone or under economic, suspense or end-use procedures.

Product manufacturing site	
Customs procedure applied	

### 6. Member State exporting the products:

This information is necessary to identify the community Member States where the products covered by the AE authorization are being exported from.

Name and registered office	Registration number	address	TSN	Place of export and Customs procedure

### 7 Supporting documents:

The applicant should at any moment be able to tender proof that the products for which he/she certified the origin are effectively originating under the Supplementary Act fixing community rules of origin and procedures applicable to products originating in the Economic Community of West African States (ECOWAS). In this regards, he/she must hold some supporting documents that help in monitoring and tracking either the materials used (for manufacturers), either the products he/she bought from other producers (for traders). The

supporting documents of origin (supplier declarations, etc.) are not necessarily provided retroactively. However, he/she must have them at hand to support each export operation and present them in the event of verification. Operators are highly encouraged to sensitize their suppliers on the importance of the content of supplier declarations.

Case of manufacturer	Case of Trader/Seller
Description of manufacturing process	Supplier's Declaration of products purchased in the Community
Trade records	
Supplier's Declaration for raw materials purchased in the Community	Proof of preferential origin
Proof of origin: Community certificate of origin, Invoice declaration of origin	
Place of manufacture and Customs procedure	
Other, specify	Other, specify

### 8 Exporter's commitment

The Exporter should commit to the correct use of the AE authorization and towards the responsibilities attached to it (keeping supporting documents, appearing at the customs office, regular updating etc). The exporter should also fully commit himself/herself on all declaration of origin by signing the statement of responsibility.

"I undertake to issue declarations of origin only:

- For products that have acquired the originating status, and
- For which I possess, at the time of issuance, all the proofs or accounting elements necessary to prove the originating status of the products, in the case of declarations of origin.

I undertake to sign in writing all the declarations of origin that I issue.

I undertake to keep:

- A copy of the original declarations which will be drawn up on the basis of this authorization and
- Supporting documents relating to these declarations for five (5) years in accordance with Article 15 of the Supplementary Act laying down Community rules of origin and procedures applicable to goods originating in the Economic Community of West African States (ECOWAS)

I undertake to submit to the Customs Service any additional justifications that it deems necessary for the control of the declarations of origin which will be established on the basis of this authorization and to accept, if need be, any control by the said Service of my accounting and the circumstances of manufacture, marketing and customs clearance of the aforementioned products.

I undertake to request as soon as possible the update of my authorization, in case of modifications of the elements which are communicated in this request, particularly in the case of new products and or new destinations.

I assume full responsibility for the use of this authorization, especially in case of incorrect declaration of origin or improper use of this authorization »

Made at....., the ..... signature of the approved exporter

#### **ANNEX 4: SUPPLIER'S DECLARATION**

I, the undersigned, supplier of the goods herein mentioned on the invoice declaration, declare that these goods fulfill the requirements to obtain the certificate herein attached:

MENTION here, the circumstances under which these goods fulfill the conditions:

Provide the following supporting documents: documents relating to the raw materials used in manufacturing the exported finished product.

I commit myself to provide, when requested by appropriate authorities, all supplementary supporting documents that may be needed in order to ascertain the information provided on the attached invoice, and also accept if need be that those authorities carry out verification about my accounting and the manufacturing circumstances of the above mentioned goods

Done for all due intents and purposes

Date .....

Signature..... (Name in full)

Annex 5 Certificate of Origin



**EIGHTY-SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF  
MINISTERS**

**Abuja, 9 - 10 December 2021**

**REGULATION C/REG.18/12/21 RELATING TO THE DETERMINATION OF THE  
COMPONENTS OF THE EX-WORKS PRICE AND THE VALUE OF NON-  
ORIGINATING MATERIALS**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Articles 3, 35, 36, 38 and 54 of the ECOWAS Treaty on the aims and objectives of the Community, the trade liberalization scheme, customs law, the Community tariff regime and the creation of economic union respectively;

**MINDFUL** of the decision A/DEC.6/7/92 to adopt and implement a single ECOWAS trade liberalization scheme;

**MINDFUL** of the Supplementary Protocol A/SP.1/06/06 of 14<sup>th</sup> June 2006 amending the said Treaty;

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

**MINDFUL** of the Supplementary Act A/SA.2/12/17 Adopting the ECOWAS Customs Code of 16th December 2017

**MINDFUL** of Supplementary Act A/SA.6/12/18 relating to mutual assistance and cooperation between the customs administration of ECOWAS member States and the collaboration between them and the ECOWAS Commission in customs matters

**MINDFUL** of the Supplementary Act A/SA.7/12/18 of 22<sup>nd</sup> December 2018 fixing community rules of origin and procedures applicable to goods originating in the Economic Community of West African States (ECOWAS).

**BEARING IN MIND** the Guidelines of the Authority of Heads of State and Government issued in Lomé on 10th December 1999, on the need to coordinate the integration programs of ECOWAS and the West African Economic and Monetary Union;

**TAKING INTO ACCOUNT** the recommendations and instructions of the sixteenth (16th) meeting of the ECOWAS/UEMOA Joint Technical Secretariat in September

2017, on the need to harmonize the legal texts relating to the application of preferential tariffs in the community.

**CONSIDERING** that, in general, any request for preferential tariff treatment must be based on the rules of Community origin in accordance with Additional Act A / SA.7 / 12/18 of 22<sup>nd</sup> December 2018 establishing the rules of Community origin and procedures applicable to goods originating in the Economic Community of West African States (ECOWAS);

**CONVINCED** of the need to make the rules of origin more flexible and understandable for better application by economic operators in the community.

**FOLLOWING VALIDATION** by the meeting of experts held in Abidjan on 28 May 2021;

**FOLLOWING THE APPROVAL OF THE ECOWAS MINISTERS OF FINANCE** held in Accra, on 12<sup>th</sup> November 2021.

**UPON THE OPINION OF THE ECOWAS Parliament** at its Second Ordinary Session held in Abuja from 30<sup>TH</sup> November to 18<sup>TH</sup> December.

## **ENACT**

### **CHAPTER I: GENERAL PROVISIONS**

#### **Article 1 DEFINITION**

**"Commission"** means the Commission of the Economic Community of West African States whose creation is reaffirmed by Article 2 of the Revised Treaty signed at Cotonou on July 23, 1993;

**"Ex works price"** The price paid for the product to the manufacturer, in whose enterprise the last working or processing took place, including the value of all the materials used and after deduction of any internal taxes which are or may be refunded when the product obtained is exported.

**"FOB value"** includes all costs related to the loading of the goods on board the ship, aircraft or any other vehicle, which are added to the ex-works price;

**"Value of material"** the customs value at the time of importation of the non-originating materials used or, if this value is not known and cannot be verified, the first verifiable price paid for the materials.

#### **Article 2: Purpose**

This Regulation defines the method of calculating value addition (ad valorem) which is one of the criteria for determining community origin in accordance with Supplementary Act A / SA.7 / 12/18 of 22<sup>nd</sup> December 2018, fixing the community rules of origin and procedures applicable to goods originating in the Economic Community of West African States (ECOWAS).

## **CHAPTER II: DETERMINATION OF THE CALCULATION OF THE VALUE OF NON-ORIGINATING MATERIALS (VNOM)**

### **Article 3: Determination of the ex-works price**

1) The ex-works price of a product is the sum of the following components:

- a. Direct production costs:
  - i. Raw materials used of Community or foreign origin;
  - ii. Consumable cost;
  - iii. Packaging cost;
  - iv. Salaries and wages
  - v. Transport, logistics
  - vi. Works, supplies and external services
  - vii. Financial costs

- b. Profit

2) The following do not form part of the determination of the ex-works price:

- a. income tax;
- b. value added tax;
- c. Turnover tax.

### **Article 4: The applied basis of the value of non-originating material in the price of the final product**

The value of non-originating materials used is based on the Free on Board (FOB) value of the product.

### **Article 5: The method of calculating the value-added criterion (ad valorem)**

The value added sets the maximum percentage of non-originating materials that can be used in the manufacture of a product. The final product obtained is considered to be originating provided the non-originating materials do not exceed a certain threshold.

#### **VNOM**

$$\text{Non-originating material threshold (\%)} = \frac{\text{VNOM}}{\text{Ex-works price}} \times 100$$

The maximum threshold of the value of all non-originating materials used, based on the Free On Board (FOB) value shall not exceed 68% of the Ex-Works Price.

## **CHAPTER II Final Provisions**

### **Article 6 ABROGATION**

This Regulation abrogates and replaces any previous contrary provisions.

## **Article 7 ENTRY INTO FORCE AND PUBLICATION**

This regulation shall enter into force upon signature.

It will be published by the Commission in the Official Journal of the Community within thirty (30) days of the date of its signature by the Chairperson of the Council of Ministers. It will also be published by each Member State, in its Official Journal, within the same deadline as above.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



**H.E SHIRLEY AYORKOR BOTCHWEY**

**CHAIRPERSON**

**FOR THE COUNCIL**



**EIGHTY SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL  
OF MINISTERS**

**ABUJA, 9-10 DECEMBER 2021**

**REGULATION C/REG.19/12/21 RELATING TO THE ECOWAS REGIONAL  
INFRASTRUCTURE MASTERPLAN (2020 – 2045)**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Article 28 and 32 of the said Treaty relating to the promotion of policies on physical infrastructure, integration and development of energy projects in the region;

**MINDFUL** of Article 33 of the Treaty relating to Posts and Telecommunications, which provides that member States undertake to develop, modernize, co-ordinate and standardize their national telecommunication networks with a view to providing reliable interconnection between member States and promoting private-sector participation in the provision of telecommunications services;

**MINDFUL** of Decision A/DEC.13/01/03 relating to the establishment of a regional transport and transit facilitation programme in support of intra-Community trade and cross border movements;

**MINDFUL** of Decision A/DEC./7/01/03 adopting the ECOWAS Energy Protocol, aimed at developing energy trade in the ECOWAS region;

**MINDFUL** of the Supplementary Act SA.5/12/08 relating to the water resource policy in West Africa;

**MINDFUL** of the Decision A/DEC.02/05/81 relating to the harmonization of highway regulations;

**MINDFUL** of the Supplementary Act A/SP.17/02/12 relating to the harmonization of standards and procedures for the Control of Dimensions, Weight and Axle load of Goods vehicle within member States of the Economic Community of West African States;

**MINDFUL** of Supplementary Act ASA.2/01/07 on access and interconnection of the Information and Communication Technology (ICT) sector networks and services;

**CONSIDERING** the Community framework for the Telecom and ICT sector and, in particular, Supplementary Act SA.1/01/07 on the harmonization of the policies and regulatory framework of the Information and Communication Technology (ICT) sector;

**MINDFUL** of the Decision for the implementation of the Yamoussoukro Declaration on the liberalization of air transport markets in Africa signed in Yamoussoukro, Côte d'Ivoire, on 14<sup>th</sup> November 1999 (Yamoussoukro Decision);

**MINDFUL** of Decision A/DEC.14/01/05 on the adoption of a regional telecommunication policy and development of GSM regional roaming in the ECOWAS Member States;

**RECALLING** Regulation C/REG.12/06/13 relating to the ECOWAS Regional Infrastructure Development;

**CONSCIOUS** of the need to improve all the multi-sectoral physical infrastructure in the region, with a view to exploiting them optimally;

**DETERMINED** to prioritize the development of regional infrastructure projects in order to address the infrastructural challenges facing the region;

**ON THE RECOMMENDATION** of the Ministers for Infrastructure, Transport, Telecommunication ICT, Energy and Water Resources of ECOWAS Member States held in Accra, Ghana on 1 June 2021;

**ON THE OPINION** of the Second Ordinary Session of the ECOWAS Parliament held in Abuja from 30 November to December 18, 2021.

## **ENACTS**

### **ARTICLE 1: ADOPTION OF THE REGIONAL INFRASTRUCTURE MASTER PLAN (2020 -2045)**

The Regional Infrastructure Master Plan (2020 -2045) attached to this Regulation is hereby adopted.

### **ARTICLE 2: RESOURCE MOBILISATION**

The ECOWAS Commission shall mobilize the necessary resources for implementation of the Regional Infrastructure Master Plan.

### **ARTICLE 3: IMPLEMENTATION**

The Regional Infrastructure Masterplan shall be coordinated and implemented by the ECOWAS Commission in collaboration with Member States.

### **ARTICLE 4: REVIEW**

The Regional Infrastructure Masterplan shall be subject to periodic review and update by the ECOWAS Commission.

### **ARTICLE 5: ENTRY INTO FORCE**

1. This Supplementary Act shall enter into force upon publication. The signatory Member States and the Commission shall begin to apply the policy and guidelines referred to in Article 1 to all new regional public-private partnership projects upon the entry into force of this Supplementary Act.

2. This Supplementary Act is annexed to the ECOWAS Treaty of which it forms an integral part.

**ARTICLE 6:**

1. This Regulation shall be published by the ECOWAS Commission in the Official Journal of the Economic Community of West African States within thirty (30) days of its signature by the Chairman of the Council of Ministers.
2. It shall be published by each Member States in its National Gazette within thirty (30) days after notification by the Commission.

**DONE IN ABUJA THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



.....  
**H.E. SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**



**EIGHTY-SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF MINISTERS**

**Abuja, 9-10 December 2021**

**REGULATION C/REG. 21/12/21 ON THE POWERS AND COMPOSITION OF THE  
COUNCIL OF THE ECOWAS REGIONAL COMPETITION AUTHORITY**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Article 3 of the said Treaty, which provides for the harmonisation and coordination of national trade policies as a means of maintaining and improving economic stability in the sub-region;

**MINDFUL** of the Supplementary Act A/SA.1/12/08 adopting the community competition rules and their modalities of application;

**MINDFUL** of the Supplementary Act A/SA.02/12/08 establishing the ECOWAS Regional Competition Authority, its powers and functions;

**MINDFUL** of the Supplementary Act A/SA.03/12/08 adopting Community rules on investment and their implementation within ECOWAS;

**CONSIDERING** the Supplementary Act, A/SA.3/12/21 on the amendment of the Supplementary Act A/SA. 2/12/08 on the establishment, functions and operation of the ECOWAS Regional Competition Authority;

**RECOGNIZING** that the economy of the ECOWAS Common Market must be efficient and competitive in order to promote and facilitate the conditions necessary for economic growth in the region;

**REAFFIRMING** that the implementation of the Community Competition Rules is necessary to promote economic integration of Member States and stimulate regional economic growth;

**RECALLING** that the Regional Competition Authority was established by Supplementary Act A/SA.2/12/08 for the effective implementation of the Competition Rules;

**NOTING** that the rigorous application of competition rules requires that the said Authority be provided with adequate rules of procedure;

**HAVING IDENTIFIED** supplementary provisions to ensure the autonomy and efficient functioning of the ECOWAS Regional Competition Authority in order to promote fair trade and effective trade liberalization;

**DESIROUS OF** adopting the attributions and the composition of the Council of the ECOWAS Regional Competition Authority in order to ensure that it has power to take decisions in the area of competition at the regional market;

**AFTER THE OPINION OF THE PARLIAMENT** at its Second Ordinary Session held in Abuja from 30th November to 18<sup>th</sup> December 2021;

**UPON RECOMMENDATION** of the thirteenth meeting of the ECOWAS Ministers of Trade held on 25 November 2021 in Lomé, Togolese Republic;

**ENACTS:**

#### **ARTICLE 1: Functions of the ERCA Council**

1. The ERCA Council shall receive, examine and take appropriate decisions on the investigations carried out by the ERCA Executive Director.
2. It shall also consider requests for orders, sanctions and compensation submitted to it by the Executive Director.
- 3 It may, if it deems it necessary, instruct the ERCA to carry out studies or to provide it with additional information.

#### **ARTICLE 2: Composition of the ERCA Council**

The ERCA Council shall be composed of ten (10) members. For ad hoc sessions, only five (5) members are convened to sit. The procedures for appointing and convening members are set out in the Implementing Regulations.

### **ARTICLE 3: Term of office of the members of the ERCA Council**

1. The members of the ERCA Council are appointed on a part-time basis for a term of four (4) years, renewable only once.
2. The modalities for the appointment, reappointment and operation of the ERCA Council will be specified in an Implementing Regulation.

### **ARTICLE 4: Secretariat of the ERCA Council**

1. The ERCA will act as the Secretariat of the Council during its work.
2. The ERCA Council may receive advisory recommendations and Expert opinions from the ERCA Consultative Competition Committee (CCC).

### **ARTICLE 5: Appeal**

- 1) The Court of Justice of the Community shall have appellate jurisdiction to review decisions of the ERCA Council.
- 2) The appeal shall be lodged within thirty (30) days from the date of receipt of the decision of the ERCA Council.

### **ARTICLE 6: Entry into force and publication**

- 1) These Regulations shall enter into force upon signature by the President of the Council of Ministers.
- 2) It shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its signature. It is also to be published by each Member State in its Official Journal, within thirty (30) days following notification by the Commission.

**DONE AT ABUJA, THIS 10TH DAY OF DECEMBER 2021**



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**H.E SHIRLEY AYORKOR BOTCHWEY**

**CHAIRPERSON**

**FOR THE COUNCIL**



## **EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

Abuja, 9-10 December 2021

### **REGULATION C/REG.22/12/21 ON THE RULES ON LENIENCY AND IMMUNITY PROCEDURES IN COMPETITION WITHIN ECOWAS**

#### **THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of the Supplementary Act A/SA.01/12/08 adopting the Community Competition Rules and their implementing rules;

**MINDFUL** of the Supplementary Act A/SA.02/12/08 establishing the ECOWAS Regional Competition Authority, its powers and functions;

**MINDFUL** of the Supplementary Act A/SA.03/12/08 adopting Community rules on investment and their implementation within ECOWAS;

**MINDFUL** of the Supplementary Act A/SA.3/12/21 relating to the amendment of the Supplementary Act A/SA. 2/12/08 on the establishment, functions and operation of the ECOWAS Regional Competition Authority;

**CONSIDERING** that the rules of competition in the functioning of the market may be violated by anti-competitive practices thus affecting the regular functioning of the market;

**CONSIDERING** that transparency in competition matters requires an adequate legal framework, as well as the establishment of procedures aimed at protecting the actors who contribute to the proper conduct of investigations and all procedures aimed at preserving free competition;

**AWARE** that the adoption and implementation of leniency rules and procedures are necessary to promote transparency in competition in the regional market;

**DESIROUS** of amending the Supplementary Act A/SA.2/12/08 on the Establishment, Functions and Operation of the ECOWAS Regional Competition Authority to align its provisions with international and regional standards and best practices in competition matters;

**ON THE RECOMMENDATION** of the meeting of Ministers in charge of Trade held on 25 November 2021;

**AFTER THE OPINION OF THE PARLIAMENT** at its Second Ordinary Session held in Abuja from 30<sup>th</sup> November to 18<sup>th</sup> December 2021.

## **HEREBY ENACTS:**

### **Article 1: Purpose**

- 1). This Regulation lays down the conditions, rules and procedures for leniency and immunity, under which non-prosecution or a reduction of the applicable sanction/penalty may be granted.
- 2). It also serves as a guide for ERCA in the exercise of its investigative and prosecutorial discretion with regard to participants in illegal cartels who, through their cooperation, help to reveal these practices.

### **Article 2: Definitions and Scope**

- 1). For the purposes of these Rules, the following definitions apply:
  - a. leniency means that a person, undertaking or group of persons involved in a cartel/illegal agreement may benefit from a reduction of any fine for disclosing information on illegal practices and agreements to ERCA;
  - b. Immunity: the fact that ERCA may waive the imposition of a sanction on an undertaking or group of persons involved in a cartel/unlawful agreement because of its cooperation in the investigation of such practices.
- 2). The leniency/immunity rules apply to an undertaking or a group of persons, which carries out profit-making or remunerative activities and is involved in the practices concerned.
- 3). The leniency rules apply irrespective of whether the cartel/illegal agreement takes place within or outside ECOWAS, as long as the practice has an effect on the ECOWAS regional market.

### **Article 3: Conditions for Leniency and Immunity**

- 1). An undertaking or person shall be granted leniency if it fulfils the following conditions:
  - a. Be involved in cartels/illegal agreements;
  - b. Voluntarily report to the ERCA the unlawful cartels/illicit collusive practices;
  - c. End its involvement in these practices;
- 2). The following are excluded from the benefit of leniency:
  - a. Any employee or group of employees in the service of an enterprise involved in the cartels/illegal agreements;

b. Any person or undertaking not involved in the cartels/illegal arrangements;

c. Any person or undertaking whose disclosure was not made spontaneously.

3) The modalities for the implementation of the leniency and immunity program shall be determined by a manual of procedure on leniency and immunity program.

#### **Article 4: Leniency or immunity procedure**

The leniency or immunity procedure is a confidential procedure and is subject to the following formalities:

##### **1) Formalities required**

Any natural or legal person wishing to benefit from leniency with the ERCA must submit a formal application to the ERCA with the following information

a. Company name, full address, name and status of the applicant

b. Facts of the case;

c. Commitment to cooperate fully and sincerely with the ERCA until the conclusion of the investigation.

##### **2) Admissibility of the application**

The ERCA will ensure that the application complies with the requirements of these Rules.

##### **3) Consideration of the application**

The ERCA considers the application and instructs the applicant to:

a. Provide all evidence, information and documents in its possession or control relating to any cartel-related activity

b. Terminate its participation in the alleged cartel immediately upon application<sup>1</sup>, except to the extent that its continued participation would, in the ERCA's view, be reasonably necessary to preserve the integrity of its inspections;

c) Cooperate truthfully and fully until the conclusion of the case; this includes in particular:

i. Providing the ERCA expeditiously with all relevant information and evidence in the possession or control of the applicant

ii. Making itself available to the ERCA to respond without delay to any request which the ERCA believes may contribute to the establishment of relevant facts;

iii. Making available to current and, where possible, former employees and Directors information for interviews with the ERCA;

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<sup>1</sup> In this paragraph 13, the term "application" means a marker application or a full leniency application (as appropriate).

- iv. Not destroying, falsifying or concealing relevant information or evidence;
- v. Not disclosing the facts or any part of the contents of the leniency application to other cartel members or to any third party, unless and to the extent explicitly authorised by the ERCA;
- vi. Must not have destroyed, falsified or concealed evidence that falls within the scope of the application; or
- vii. Must not have disclosed, directly or indirectly, the facts or any of the contents of the application it is considering, except to other competition authorities;
- viii. If the disclosures are oral, they must be substantiated by the leniency applicant. In these circumstances, the ERCA shall conduct further investigations.

#### **Article 5: Decision of the ERCA**

In the light of the file submitted, the ERCA shall take the following decisions:

##### **1) Leniency and immunity decision**

Where the ERCA concludes that the application is well-founded, it grants leniency or immunity to the applicant. However, reductions granted to an applicant under leniency must not exceed 50% of the fine that would otherwise have been imposed.

##### **2) Decision to reject**

- a. Where the ERCA concludes that the evidence provided is not sufficient, it will reject the leniency application;
- b. The ERCA terminates the leniency application procedure in case the leniency application is withdrawn or abandoned;
- c. However, the ERCA may open or continue an investigation on the basis of independently obtained information and documents or use them as evidence.

#### **Article 6: Entry into force**

This Regulation C/REG/. 22 /12/21 shall enter into force on the date of its signing by the President of the Council of Ministers.

#### **Article 7: Publication**

This Regulation C/REG/. 22 /12/21 shall be published by the Commission in the Official Gazette of the Community within thirty (30) days of its signing.

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

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



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**H.E SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON  
FOR THE COUNCIL**



**EIGHTY-SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF  
MINISTERS**

Abuja, 9-10 December 2021

**REGULATION C/REG. 23/12/21 ON THE RULES OF PROCEDURE FOR  
MERGERS AND ACQUISITIONS IN ECOWAS**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of the Supplementary Act A/SA.01/12/08 adopting the Community Competition Rules and their implementing rules;

**MINDFUL** of Supplementary Act A/SA.02/12/08 establishing the ECOWAS Regional Competition Authority, its powers and functions;

**MINDFUL** of the Supplementary Act A/SA.03/12/08 adopting Community rules on investment and their implementation within ECOWAS;

**MINDFUL** of the Supplementary Act A/SA.3/12/21 relating to the amendment of the Supplementary Act A/SA. 2/12/08 on the establishment, functions and operation of the ECOWAS Regional Competition Authority;

**CONSIDERING** that the balanced functioning of the regional market may be affected by business combinations or takeovers of companies;

**AWARE** that transparency in the process of bringing together business groups is a sine qua non condition for ensuring the balance of the regional market and free competition;

**AWARE** also that the process of bringing together business combinations requires an adequate legal framework, as well as the establishment of procedures for the organisation of mergers and acquisitions within ECOWAS;

**DESIROUS** of clarifying the general provisions relating to mergers and acquisitions as provided for in the Supplementary Acts A/SA.01/12/08 and A/SA.02/12/08 and to adopt rules and procedures relating thereto;

**UPON RECOMMENDATION** of the meeting of Ministers in charge of Trade held on 25 November 2021 in Lomé, Togolese Republic;

**AFTER THE OPINION OF THE PARLIAMENT** at its Second Ordinary Session held in Abuja from 30<sup>th</sup> November to 18<sup>th</sup> December 2021;

## **ENACTS:**

### **Article 1: Purpose and Scope**

- 1). This Regulation sets out the conditions, rules and procedures for mergers and acquisitions.
- 2). They also serve as a guide for the ERCA in the exercise of its power of prior authorisation in respect of mergers and acquisitions.
- 3). They apply to mergers and acquisitions of undertakings which operate in at least two Member States of the Community. The turnover or any relevant balance sheet item of such undertakings must be above a certain threshold. The ERCA sets the threshold for mergers and acquisitions and publishes it in accordance with ECOWAS publication rules.
- 4). Any person involved in the production, supply, distribution and purchase of goods and services in the Community;

### **Article 2: Mergers and Acquisitions Procedures**

- 1). All mergers and acquisitions of undertakings shall be carried out in accordance with the following formalities:
  - a. Any company or business enterprise wishing to merge with or acquire all or part of another company or undertaking shall submit a notification/application for prior authorisation to the ERCA. The application shall contain the following:
    - i. Name of the applicant companies;
    - ii. Physical address of the companies;
    - iii. E-mail addresses and telephones;
    - iv. Full identities of the companies' directors;
    - v. Amount of share capital;
    - vi. Balance sheet, turnover and profit and loss accounts;
    - vii. Market shares;

viii. Application fee calculated at 0.01% of the combined annual turnover or the combined value of the assets of the companies in the Community, whichever is higher. This fee is paid to the ERCA, which determines the terms of the fee. The costs of the merger notification paid are not, under any circumstances, refundable.

b. The jurisdictional rate (threshold) of the ERCA in merger and acquisition matters is determined by an Enabling Regulation of the President of the Commission.

c. The notification is received and registered by the ERCA, which assigns a separate file number to each Merger Notice.

d. The ERCA publishes any notification/request for merger or acquisition in the Official Gazette of the Community and in the newspapers of the Member States.

## 2). Consideration of the notification/application by the ERCA

a. ERCA has a period of sixty (60) days from the date of receipt of the notification to make a recommendation for issuing its decision on authorisation or rejection. However, this period may be extended by a maximum of thirty (30) days if additional information is requested by the ERCA.

b. ERCA shall examine the merger or acquisition application by checking the following elements:

- i. Proven public interest;
- ii. Whether the merger is beneficial to the State as a whole or only to a fringe group; and
- iii. Competing interests are balanced;
- iv. Authorisation of the merger will result in an injustice or a violation of human rights;
- v. If the merger or acquisition is anti-competitive or substantially lessens competition in the Community.

## Article 3: Decision of the ERCA Council

1) The Executive Director of the ERCA submits to the ERCA Council the findings and recommendations of the consideration of the notification/application files;

2) ERCA Council shall decide on the following within a period of thirty (30) days from the date of reception of the recommendation, as appropriate:

- a. The Council may authorise the merger or acquisition with or without conditions;
- b. It may also reject the merger or acquisition application by a reasoned decision;
- c. It may also request the ERCA to continue and complete the investigations to enable it to take a final decision;
- d. However, this period stated above may be extended for a maximum of fifteen (15) days if the Council requests for additional information.

3) The ERCA shall publish its decision following the review of the notification/application.

#### **Article 4: Entry into force and publication**

- 1) These Regulations shall enter into force upon signing by the President of the Council of Ministers.
- 2). It shall be published by the Commission in the Official Gazette of the Community within thirty (30) days of its signing.
- 3) It shall also be published by each Member State in its Official Journal within thirty (30) days following notification by the Commission.

**DONE AT ABUJA, THIS 10 DECEMBER 2021**



**H.E SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**



**EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

Abuja, 9-10 December 2021

**REGULATION C/REG. 24/12/21 ON THE ERCA'S RULES OF PROCEDURE IN  
COMPETITION MATTERS**

**THE COUNCIL OF MINISTERS,**

**MINDFUL OF** Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

**MINDFUL OF** the Supplementary Act A/SA.01/12/08 adopting the Community Competition Rules and their implementing rules;

**MINDFUL OF** Supplementary Act A/SA.02/12/08 establishing the ECOWAS Regional Competition Authority, its powers and functions;

**MINDFUL OF** the Supplementary Act A/SA.03/12/08 adopting Community rules on investment and their implementation within ECOWAS;

**MINDFUL of** the Supplementary Act A/SA.3/12/21 relating to the amendment of the Supplementary Act A/SA. 2/12/08 on the establishment, functions and operation of the ECOWAS Regional Competition Authority;

**CONSIDERING** that following its establishment, ERCA, in order to operate, needs the rules of procedure necessary for its operation;

**ANXIOUS** to define these rules of procedure relating to the institutional framework, investigations, offenses, sanctions and modalities and right of appeal of ERCA Council's decisions;

**DESIROUS** of adopting the rules of procedure of the ECOWAS Regional Competition Authority (ERCA);

**UPON RECOMMENDATION** of the meeting of Ministers in charge of Trade held on 25 November 2021 in Lomé, Togolese Republic;

**AFTER THE OPINION OF THE PARLIAMENT** at its Second Ordinary Session held in Abuja from 30<sup>th</sup> November to 18<sup>th</sup> December 2021;

## **ENACTS:**

### **Chapter 1 - DEFINITIONS, PURPOSE AND SCOPE**

#### **Article 1: Definitions**

For the purposes of this Regulation, the following definitions shall apply:

**"Acquiring company"**: means a company which exercises direct or indirect control over all or part of the business of another company or which, as a result of a merger or acquisition, acquires or establishes direct or indirect control over all or part of the business of another company;

**"Authority"**: means the ECOWAS Regional Competition Authority established under Article 1 of the Supplementary Act establishing the ERCA;

**"Regulation"**: means Regulation C/Reg. ....12/21 laying down the Rules of Procedure of the ERCA in Competition Matters;

**"Community Competition Rules"**: means the Supplementary Act A/SA.1/12/08 adopting the Community Competition Rules and their implementation within ECOWAS;

**"Community Court of Justice"** : means the Court of Justice established under Article 15 of the Revised Treaty of 29 July 1993;

**"Competent Authority"**: means the National Authorities in charge of competition;

**"Consultative Competition Committee"**: means the body of experts bearing the said designation, constituted in accordance with Article 13(4) of the Supplementary Act A/SA.1/12/08 adopting the Community Competition Rules;

**"Council"**: means the Council of Ministers of the Community established under Article 10 of the Revised Treaty;

**"Merger"**: means the acquisition of control or other business combinations provided for in Article 7 of the Supplementary Act A/SA.1/12/08 on the Community Competition Rules;

**"Merger notification"**: means the notification of a merger or acquisition

**"Serve"**: means to deliver a document to a person or to the Authority;

**"Target Company"**: means a company which:

- a. as a result of a merger, all or part of whose business will be controlled directly or indirectly by an acquiring company;
- b. as a result of a merger, directly or indirectly transfers control of all or part of its business to an acquiring company;

**"Calculation of the time limit"**: Where a time limit is provided for in relation to competition matters, the time limit runs from the day on which the fact or event occurred. The period also runs from the day on which the act was published or notified. Saturdays, Sundays and public holidays are not taken into account when calculating the time limits;

**"Instructions in the forms"** means all the information contained in a form to be filled in by the person concerned, together with other documents, where appropriate.

**"Units of Account (UA)"**: ECOWAS Units of Account;

## **Article 2: Purpose**

The purpose of this Regulation is to lay down the Rules of Procedure of the ERCA in the context of the implementation of the Community competition law.

## **Article 3: Scope**

This Regulation applies to the harmonisation of competition laws, procedures, cooperation in investigations, exchange of information, decision-making, enforcement, sanctions and compensation.

# **Chapter 2 – INSTITUTIONAL FRAMEWORK**

## **Article 4 :Enforcement Authority**

- 1) The ECOWAS Regional Competition Authority, abbreviated to ERCA, is the regional body responsible for the enforcement of Community competition rules in the region.
- 2) Decisions of the Authority shall be binding on enterprises, governments and authorities of Member States.
- 3) Any directive issued by the Authority shall be implemented by the receiving party.

## **Article 5:Legal Status of the ERCA**

The Authority shall be the ECOWAS specialised agency for competition matters

## **Article 6:Seal of the ECOWAS Competition Authority**

- 1) The Authority shall have a seal comprising:
  - a. The logo or other appropriate insignia; and
  - b. The expression "ECOWAS Regional Competition Authority" in the three (3) working languages of the Community.
- 2) The seal of the Authority shall be affixed by the Executive Director of the ERCA. He may delegate this function.

## **Article 7: The Executive Director**

- 1) The ERCA is headed by an Executive Director assisted by Directors.
- 2) The Executive Director is responsible for organising and coordinating all the activities of the Authority, including:
  - a. directing and supervising the staff of the Authority in the framework of administrative and technical management;
  - b. coordinating the implementation of the Authority's work programme and budget;
  - c. coordinating and supervising the development of funding strategies;
  - d. coordinating and supervising the mobilisation of resources with technical and financial partners;
  - e. coordinating and supervising the management and maintenance of the assets placed at the disposal of the Authority;
  - f. ensuring good visibility of the Authority through effective communication;
  - g. reporting on all its technical and administrative activities to the relevant Departments of the Commission;
  - h. dealing with the implementation of this Regulation;
  - i. submitting for adoption by the Council of Ministers an adjustment of the ERCA's organisational chart and staffing in collaboration with the ECOWAS Commission;
  - j. proposing to the President of the Commission any modification of the tasks and responsibilities of each Director, as well as the assignment of staff members of each Directorate;
  - k. reporting to the Consultative Competition Committee on its activities and implementing its recommendations;
  - l. presenting investigation reports and recommendations to the Council for final decision, sanction and compensation orders, as the Council may deem fit and appropriate to it;
  - m. enforcing the reasoned decisions of the Council in accordance with the Community Rules on enforcement;
  - n. submitting requests for advisory opinions to the competent authorities of the Member States on the investigation procedure;
  - o. proposing standards and protocols for cooperation with national and regional competition bodies.

#### **Article 8: Registry**

A Registry Department is established within the ERCA. The functioning of the Registry department is specified in an internal procedure manual.

### **Chapter 3: INVESTIGATIONS**

#### **Article 9: Pre-enquiry formalities**

- 1) Applications shall be registered with the Registry Department either physically, electronically or any other means as approved by the Authority.
- 2) Investigations by Complaint

- a. A person aggrieved by the conduct or action of a person who violates the Community Competition Rules may submit a Complaint to the ERCA in accordance with the Form designed by the Authority;
- b. The Complaint shall contain sufficient and necessary information for a preliminary assessment of the case by the ERCA. This information shall include a detailed description of the practice considered to infringe the Regulation, the geographical location and any supporting documentation, if applicable.
- c. An investigation may only be ordered if the alleged infringement falls within the competence of the Authority.
- d. The Authority's decision on a Complaint submitted to it shall be taken within 30 days of the date of receipt. If the Authority wishes to extend this period, it shall inform the Complainant. The extended period for taking a decision on the Complaint shall not exceed additional 45 days.
- e. The Authority's decision to open an investigation shall be notified in writing to the Complainant and the party under investigation in accordance with the Form designed by the ERCA.
- f. The investigation shall be completed within 180 calendar days from the date of receipt of the Complaint, unless extended by the Executive Director, which shall not exceed 90 days. The Executive Director shall so inform the parties.

### 3) Investigations at the initiative of the Authority

- a. The Executive Director may initiate an investigation upon a report from the Director of Investigation and Enforcement or if he believes that a person has acted in violation of the Community Competition Rules
- b. The competition authority of the Member State on whose territory the investigation is to be carried out and the Member State's representative on the Consultative Competition Committee shall assist in the investigation at the request of the ERCA.

## Article 10: Formalities during the investigation

### 1) Convening

- a. In the course of an investigation, the Authority may summon any person to appear before it to give evidence.
- b. The summons shall be signed by the Executive Director or his representative and sent by fax, post, e-mail or any other means, and shall bear the Authority's seal. It shall mention the date of appearance of the person summoned and the possibility of being assisted by counsel.
- b.
- c. Failure to comply with the summons shall be punishable by a fine ranging from UA 500 to UA 10,000 - ECOWAS Units of Account, for each continuing day of disobedient, without prejudice to the continuation of the procedure.

## 2) Investigation on Sectors of the Regional Economy

- a. Investigations into sectors of the economy shall focus on the evolution of trade between Member States, price movements, price rigidity or other circumstances suggesting that competition is restricted or distorted.
- b. The Authority may, under these conditions, require any company or association of companies in the economic sector concerned to supply it with any information, in particular all agreements, decisions, concerted practices and the structure of companies.

## 3) Communication and Transmission of Documents

- a. The Authority shall instruct, in the context of the investigation, any party involved to make available the required documents within fifteen (15) working days, under penalty of the fine provided for in Paragraph 1 c) of this Article.
- b. If the documents submitted are incomplete, the ERCA shall inform the competent authority of the Member State on whose territory they are to be submitted so that it can take the necessary measures.
- c. In any event, the ERCA shall indicate the legal basis and purpose of the request and the penalties provided for in this Regulation for supplying incorrect information.
- d. The Authority shall at the same time forward a copy of its decision to the competent authority of the Member State in whose territory the head office of the company or association of companies is situated
- e. The documents may also be transmitted to other persons involved in the procedure.
- f. The staff and members of the ERCA Council, consultants and staff of the national authority are bound by professional secrecy.
- g. The parties involved in the investigation are bound by the confidentiality of the information they receive in the course of the procedure. The Council, upon recommendation of ERCA, shall impose appropriate sanction for breach of confidentiality.

## 4) Investigations in the Member States

- a. At the request of the Authority, the competent authorities of the Member States and the ERCA shall jointly undertake such investigations as the Authority considers necessary.
- b. The officials of the competent authorities of the Member States responsible for conducting these investigations shall exercise their powers on presentation of an authorisation issued by the competent authority of the Member State on whose territory the investigations are to be conducted. This authorisation shall specify the object and purpose of the investigation.

- c. The rights of the defence shall be guaranteed during the investigation.

#### 5) Investigative Powers of the Authority

- a. In the exercise of its functions, the ERCA may carry out all necessary investigations in companies and associations of companies. To this end, the officials authorised by the Authority have all the necessary powers to access any place, documentation, equipment and documents of any kind that may help to establish the truth. It shall also conduct hearings.
- b. The ERCA officials authorised to carry out these investigations shall exercise their powers upon presentation of a written mandate specifying the object and purpose of the investigation and the sanctions provided for in this Regulation, in cases where the required books or other commercial records produced are incomplete. In good time before the investigation, the Authority shall inform the competent authority of the Member State in whose territory the investigation is to be carried out of the investigation and of the identity of the authorised officials
- c. Companies and associations of companies shall submit to investigations ordered by decision of the Authority. The mandate shall specify the object and purpose of the investigation, fix the date on which it is to begin and indicate the penalties incurred.

#### 6) Taking any other reasonable measures

The Authority may take any other reasonable measure necessary to conclude an investigation.

#### 7) Intervention by third parties affected by investigations

- a. Any person who believes that he or she will be affected by the investigation may request to be heard by the ERCA.
- b. The Authority may call any person whose evidence is necessary for the determination of the truth.

### Article 11: Results of enquiry and Investigation

At the end of an enquiry or investigation, the Executive Director shall take the following decision:

#### 1) Decision to close

Decision to close the case and notify parties where necessary. However a closed enquiry may be reopened. If new facts justify the reopening.

If the Executive Director considers that there are no grounds for an enquiry or investigation, he or she shall close the enquiry. However, a closed investigation may be reopened if new facts justify its reopening.

#### 2) Transmission to the ERCA Council

If the Executive Director considers that there has been an infringement of the Community competition rules, he will forward the file to the ERCA Council which will examine it and take a reasoned decision.

### Article 12: Publication of ERCA Council Decisions

All decisions of the ERCA Council must be notified to the parties and published in the Official Gazette of the Community.

#### **Chapter 4 – INFRINGEMENTS-SANCTIONS-APPEAL**

##### **Article 13: Infringements**

1) Any violation of the ECOWAS Community Competition Rules, in particular agreements, decisions and concerted practices described in Articles 4 and 5 of the Community Competition Rules and the abuse of a dominant market position within the meaning of Article 6 of the Supplementary Act A/SA.01/12/08, shall constitute an infringement.

2) At the request of a Complainant or on its own initiative, ERCA, after finding an infringement as defined in paragraph 1 above, shall recommend for sanction and/or compensation against companies or associations of companies concerned to bring such infringement to an end.

3) The persons entitled to lodge a Complaint are any Member State or any natural or legal person who is affected by the infringement or who may be affected by it.

##### **4) Authorisations or exemptions**

a. The ERCA has the power to grant authorisations or exemptions under Article 11 of the Community Competition Rules on request or on its own initiative.

b. Upon application by the companies or associations of companies concerned, the Authority may decide that, on the basis of the facts available to it, there are no grounds for it to intervene in the assessment of an alleged agreement or practice.

##### **5) Notification of existing agreements, decisions and concerted practices**

a. All agreements, decisions and concerted practices which are subject to authorisation or exemption are notified to the ERCA at the time of their entry into force. They shall be notified within twelve (12) months of the date of entry into force of this Regulation. Otherwise, they may not be the subject of any authorisation or exemption decision under Article 11 of the Supplementary Act A/SA. 1/12/08 on the Community Competition Rules and their implementation within ECOWAS.

b. Paragraph a) above shall not apply to agreements, decisions and concerted practices which have no impact on the regional market.

##### **Article 14: Sanctions**

1) The ERCA Council shall impose financial penalties on companies that obstruct the proper conduct of the investigation or that are convicted of violating the Community Competition Rules.

2) The ERCA Council shall impose civil fines of up to 10% of the annual turnover of the company concerned.

3) These fines may be accompanied by periodic penalty payments ranging from UA 300,000 to UA 750,000.

4) The ERCA Council shall determine in its decision the date of collection and the modalities of implementation of the periodic penalty payments.

**5) Compensation**

- a. The Executive Director shall refer to the Council the request for compensation submitted by a person who has suffered damage as a result of anti-competitive behaviour.
- b. The Council may, after considering the application, order an enterprise or association of enterprises to pay compensation in accordance with Articles 7, 8 and 9 of the Act establishing the ERCA and Article 10 of the Community Competition Rules, where a loss has been suffered as a result of a prohibited act.
- c. Compensation shall, as far as possible, be proportionate to the loss suffered by the claimant, taking into account the economic situation prevailing at the time of the claim.
- d. The officials of the competent authority of the Member State in whose territory the company (ies) liable to pay compensation has its head office or residence shall assist in recovering the compensation from the company.

**Article 15: Appeals**

1) The Court of Justice of the Community shall have appellate jurisdiction to review decisions of the ERCA.

2) The appeal shall be lodged within thirty (30) days from the date of receipt of the decision of the ERCA Council.

**Chapter 5: FINAL PROVISIONS**

**Article 16: Entry into Force**

This Regulation C/REG/.24 /12/21 shall enter into force on the date of its signing by the Chairperson of the Council of Ministers.

**Article 17: Publication**

This Regulation C/REG/.24 /12/21 shall be published by the Commission in the Official Gazette of the Community within thirty (30) days of its signing.

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

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



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**H.E SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**



**EIGHTY-SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF  
MINISTERS**

Abuja, 9 - 10 December 2021

**REGULATION C/REG.25/12/21 RELATING TO THE REVISED OPERATIONAL  
MANUAL OF THE ECOWAS NATIONAL OFFICES**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Revised Treaty as amended establishing the Council of Ministers and defining its composition and function;

**MINDFUL** of Recommendation C/REG.1/11/82 Relating to the Establishment of ECOWAS National Structures to Follow up ECOWAS Activities;

**MINDFUL** of Decision C/REG.6/12/90 on the Institutionalization of the Meeting of Heads of ECOWAS National Units;

**MINDFUL** of Decision A/DEC.3/12/90 on the upgrading of the Status of ECOWAS National Units in Member States;

**MINDFUL** of Regulation C/REG.5/8/97 Relating to the Conditions of the Payment of a Subsidy of 10,000 Units of Account to National Units;

**MINDFUL** of Regulation C/REG.04/06/05 Relating to the Mission, Role and Functions of ECOWAS National Units;

**MINDFUL** of Regulation C/REG.24/11/10 Relating to the Adoption of Guiding Principles for the Operation of ECOWAS National Units;

**MINDFUL** of Regulation C/REG.11/12/13 relating to the retitling of the name of ECOWAS National Units to ECOWAS National Offices and the Adoption of an Operational Manual for the ECOWAS National Offices;

**RECALLING** that the Operational Manual of National Offices became operational six (6 ) years ago;

**RECALLING** also that on the recommendation of the 28<sup>th</sup> Ordinary Session of the Administration and Finance Committee Meeting, the National Units and Heads of National Units reviewed the Operational Manual of ECOWAS National Offices during their Meetings held in Grand Bassam, Cote D' Ivoire in April 2021 and in Lomé in July 2021 respectively;

**ACKNOWLEDGING** that the Revised Operational Manual aims at enhancing Operational capacities, harmonizing procedures and structures, and mode of operation at National Offices;

**KNOWING** that the Revised Operational Manual will ensure an effective implementation and ownership of ECOWAS reforms, policies, programs and projects at the National level;

**DESIRIOUS** of adopting the Revised Operational Manual of ECOWAS National Offices to create a mechanism of ensuring ECOWAS visibility at National level and monitoring the ECOWAS Regional Integration Agenda;

**ON THE RECOMMENDATION** of the Thirtieth Meeting of the Administration and Finance Committee held in Abuja from 25<sup>th</sup> November to 2<sup>nd</sup> December 2021.

**UPON THE OPINION OF THE ECOWAS PARLIAMENT** at its Second Ordinary Session held in Abuja from 30<sup>th</sup> November to 18<sup>th</sup> December 2021.

### **ENACTS**

#### **Article 1**

The Operational Manual of the ECOWAS National Offices attached is hereby adopted.

#### **Article 2**

This Regulation shall be published by the ECOWAS Commission in the official Journal of the Community within thirty (30) days of its signing by the chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette within 30 days of its notification thereof by the Commission.

**DONE AT ABUJA THIS 10TH DAY OF DECEMBER 2021**



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**H.E SHIRLEY AYORKOR BOTCHWEY**

**CHAIRPERSON**

**FOR COUNCIL**



**EIGHTY-SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF  
MINISTERS**

Abuja, 9-10 December 2021

**REGULATION C/REG.29/12/21 ADOPTING THE NEW REVISED ECOWAS  
INSTITUTIONS STAFF REGULATIONS AND ECOWAS PRINCIPLES FOR STAFF  
EMPLOYMENT**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the Economic Community of West African  
States Revised Treaty establishing the Council of Ministers and defining its  
composition and function;

**MINDFUL** of the Staff Rules and Staff Regulations of ECOWAS adopted by the  
Council of Ministers in 2005;

**NOTING** the inadequacies in the afore mentioned Staff Rules and Regulations,  
which have undermined proper administration and effective personnel  
management;

**DESIRING** to ensure that the guiding principles for ECOWAS Institutions Staff  
employment are in consonance with the principles applicable in other similar  
international organizations and that the Staff Regulations are modern and reflect  
the rules of international public service;

**UPON THE OPINION OF PARLIAMENT** during its second ordinary session held in  
Abuja from 30 November to 18 December 2021.

**ON THE RECOMMENDATION** of the thirtieth ordinary session of the  
Administration and Finance Committee, held in Abuja on 25<sup>th</sup> November – 2<sup>nd</sup>  
December 2021.

**ENACTS:**

**ARTICLE 1**

The new Principles for Employment for Staff of the Economic Community of West African States are hereby adopted and are attached as an annex to this Regulation.

**ARTICLE 2**

The Revised ECOWAS Institutions Staff Regulations are also hereby adopted and are attached as an annex to this Regulation.

**ARTICLE 3**

"The Principles for Staff Employment" and the "Revised ECOWAS Institutions Staff Regulations" shall respectively replace and supersede the previous ECOWAS Staff Rule and Staff Regulation of 2005.

**ARTICLE 4**

This Regulation **C/REG.29/12/21** shall enter into force upon signature by the Chairperson of Council.

**ARTICLE 5**

1. This Regulation **C/REG.29/12/21** shall be published in the Official Journal of the Community by the Commission within thirty (30) days of its signature by the Chairperson of the Council of Ministers.
2. It shall also be published by each Member State in its National Gazette within same time frame.

**DONE AT ABUJA, THIS 10TH DAY OF DECEMBER 2021**



**H.E. HON. SHIRLEY AYORKOR BOTCHWEY**

**CHAIRPERSON**

**FOR THE COUNCIL**



## **EIGHTY SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF MINISTERS**

Abuja, 9 - 10 December 2021

### **REGULATION C/REG. 30 /12/21 AMENDING REGULATION C/REG.16/12/07 ESTABLISHING THE CONDITIONS OF SERVICE FOR STATUTORY APPOINTEES OF COMMUNITY INSTITUTIONS**

#### **THE COUNCIL OF MINISTERS**

**MINDFUL** of Articles 10, 11 and 12 of the Revised ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Decision A/DEC.16/01/06 transforming the Executive Secretariat into a Commission.

**CONSIDERING** the need to reduce operating costs of ECOWAS Institutions without compromising service delivery by maintaining a ratio of 65/35 on program / administrative costs.

**CONSIDERING** that the adoption of a 7 members Commission would generate savings resulting from the reduction of allowances and the number of Commissioners and Executive Assistants;

**NOTING** that the savings earned by the reduction of these allowances would be used in the implementation of programs and projects that would impact directly on the lives of Community citizens;

**DESIRIOUS** of amending the conditions of service for Statutory Appointees.

**ON THE RECOMMENDATION** of the 3<sup>rd</sup> Extraordinary Session of the ECOWAS Council of Ministers on Institutional Reform held on 5<sup>th</sup> October 2021 in Accra.

**ON THE OPINION** of the ECOWAS Parliament at its Second Session held from 30<sup>th</sup> November to 18 December 2021

#### **ENACTS**

#### **Article 1: Reduction of emoluments of service for statutory appointees of community institutions**

In the framework of the institutional reform the emoluments of the statutory appointees of community institutions are reduce as follow:

- a) Statutory Appointees shall not be paid allowances in respect of Household equipment and furniture, domestic staff allowance and Utilities allowance, except the Heads of Institutions.
- b) Transport allowance shall be adjusted downwards to reflect the provisions of Regulation C/Reg16/17/07;
- c) The President of ECOWAS Commission shall take enabling rule after due consultation with the President of Counsel of Ministers.

## **Article 2: Emoluments to be paid of service for statutory appointees of community institutions**

The following emoluments to be paid:

- a) Installation Allowance;
- b) Specific allowance for the Statutory Appointees who are allocated a car and driver shall be determine in the enabling rule by the President after due consultation with the President of Counsel of Ministers.

## **Article 3: Abrogation**

This regulation shall abrogate and supersedes the previous C/REG.16/12/07 establishing the conditions of service for statutory appointees of community institutions

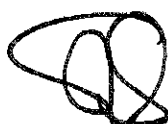
## **Article 4: Signature and publication**

This Regulation shall be published by the ECOWAS Commission in the official Journal of the Community within thirty (30) days of its signing by the chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette within 30 days of its notification thereof by the Commission.

**DONE AT ABUJA THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**

**CHAIRPERSON**

**FOR COUNCIL**



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**H.E SHIRLEY AYORKOR BOTCHWEY**



**EIGHTY SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF MINISTERS**

Abuja , 9 - 10 December 2021

**REGULATION C/REG. 31 /12/21 APPROVING THE AUDITED FINANCIAL STATEMENTS OF COMMUNITY INSTITUTIONS FOR THE YEARS 2016 -2020**

**THE COUNCIL OF MINISTERS**

**MINDFUL** of Articles 10, 11 and 12 of the Revised ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions.

**MINDFUL** of Article 75 of the Ecowas Revised Treaty relating to the appointment of External Auditors.

MINDFUL of the Financial Regulation of Ecowas Institutions of 2019;

Mindful of the appointment of the firm PriceWaterHouseCooper as external Auditors

Having examined the report of the firm PriceWaterHouseCooper on the financial statements of the Ecowas Institutions for the years 2016 - 2020.

**ON THE RECOMMENDATION** of 45<sup>th</sup> the Ecowas Audit Committee held in Abuja from 3 to 7 December 2021 ;

**ON THE OPINION** of the **ECOWAS** Parliament at its Second Session held from 30<sup>th</sup> November to 18 December 2021

**ENACTS:**

**Article 1**

The audited financial statements of the Ecowas Institutions for the years 2016 – 2020 are hereby approved.

**Article 2**

This Regulation shall be published by the ECOWAS Commission in the official Journal of the Community within thirty (30) days of its signing by the chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette within 30 days of its notification thereof by the Commission.

**DONE AT ABUJA THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**

**FOR COUNCIL**

**CHAIRPERSON**

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**H.E SHIRLEY AYORKOR BOTCHWEY**



**EIGHTY SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF MINISTERS**

Abuja, 9 - 10 December 2021

**REGULATION C/REG. 32 /12/21 APPROVING THE COMMUNITY LEVY FINANCIAL STATEMENTS OF COMMUNITY INSTITUTIONS FOR THE YEAR 2020**

**THE COUNCIL OF MINISTERS**

**MINDFUL** of Articles 10, 11 and 12 of the Revised ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions.

**MINDFUL** of Article 75 of the Ecowas Revised Treaty relating to the appointment of External Auditors.

**MINDFUL** of the Financial Regulation of Ecowas Institutions of 2019.

**Mindful** of the appointment of the firm PriceWaterHouseCooper as external Auditors

Having examined the report of the firm PriceWaterHouseCooper on the financial statements of the Ecowas Institutions for the years 2016 - 2020.

**ON THE RECOMMENDATION** of 45<sup>th</sup> the Ecowas Audit Committee held in Abuja from 3 to 7 December 2021;

**ON THE OPINION** of the **ECOWAS** Parliament at its Second Session held from 30<sup>th</sup> November to 18 December 2021

**ENACTS:**

**Article 1**

The community levy financial statements of the Ecowas Institutions for the year 2020 are hereby approved.

**Article 2**

This Regulation shall be published by the ECOWAS Commission in the official Journal of the Community within thirty (30) days of its signing by the chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette within 30 days of its notification thereof by the Commission.

**DONE AT ABUJA THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**

**FOR COUNCIL**

**CHAIRPERSON**

**H.E SHIRLEY AYORKOR BOTCHWEY**



**EIGHTY SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF MINISTERS**

**ABUJA 10 December 2021**

**REGULATION C/REG. 34/12/21 Amending Article 16 Paragraph 7 subparagraphs a and c, Article 18 Paragraphs 3, 4, 5, 6, 8 and 15 and Article 90 paragraph 1 of the ECOWAS Procurement Code**

**THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the Revised ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions.

**MINDFUL OF** Regulation C/REG. 12 /12/2018 on the ECOWAS Institutions Procurement Code;

**CONSIDERING** the application of the ECOWAS Institutions Procurement Code has highlighted shortcomings in some of its provisions that need to be filled;

**CONSIDERING** the Recommendation of the Administration and Finance Committee, from the eighty-fourth Meeting on the proposals for amendments of the above-mentioned Code;

**ON Recommendation** of the Administration and Finance Committee at its Fifth (5th) Extraordinary Meeting held in Accra from 27 September to 6 October 2021;

**ENACTS:**

**ARTICLE 1: Composition of the Evaluation Committee**

Article 16 (7) (a) and (c) on the composition of the Evaluation Committee shall be amended as follows:

**Article 16 paragraph 7, subparagraphs (a) and (c) new:**

**7. a**

The Evaluation Committee consists of between three and five evaluators, including a representative of the user department. Each evaluator must have an alternate. The role of Secretary, with the right of rating, is carried out by the Procurement Division/Unit. For tenders worth more than UA 500,000 and proposals for intellectual services estimated at more than UA 250,000, the Committee comprises five evaluators. The latter have the same rights in terms of rating.

### **7.c**

The Contracting Authority shall appoint the members of the Evaluation Committee with a minimum grade of P3/P4. Failing this, the staff members occupying the highest and most competent ranks shall be appointed to sit on the Committee.

### **Article 2: Composition of the Compliance Verification Committee**

Paragraphs 3, 4, 5, 6, 8 and 15 of Article 18 are amended as follows:

#### **Article 18 new:**

**3.** In the case of the Commission, the contracting authority, i.e. the Chairman of the Commission, shall appoint the Audit Committee, which shall consist of the following members:

- i. The Head of Compliance at the ECOWAS Commission, President;
  - ii. The Director of Legal Affairs, Member;
  - iii. The Director of Strategic Planning, Monitoring and Evaluation, member;
- 4.** The President shall also appoint at least two (2) alternate members of the Audit Committee to compensate for any absences of one of the two (2) members of the Audit Committee. In the absence of the Chairman of the Audit Committee, the President of the Commission shall appoint an official from his Cabinet as Acting Chairman. Alternate members of the Audit Committee must not come from the Home Departments/Offices of the three (3) full members, namely, the User Department, the Finance Department and the Procurement Department;
- 5.** In the case of other institutions, agencies and offices, the President or his representative shall appoint as members of the Audit Committee persons having functions equivalent to those indicated for the Commission;
- 6.** The Review Committee shall meet with a minimum number of three (3), including alternates, if any. The President or his interim is present;
- 8.** A quorum is constituted when at least three (3) members of the Committee are present.

**15.** In case of disagreement between the Audit Committee and the Evaluation Committee, the dispute is brought before the President or Head of Institution, the Head of Agency or the Head of Office for final decision. The Commissioner in charge of Procurement at Commission level and/or the Director in charge of Procurement at the level of Institutions or Agencies or Offices submits the dispute to the President or Head of the Institution, the Head of Agency or the Head of Office.

### **Article 3: Waiting period**

Article 90, paragraph 1, is amended as follows:

#### **Article 90 Paragraph 1 new**

The Contracting Authority shall sign the contract with the successful tenderer(s)/consultant(s), after a waiting period of fifteen (15) calendar days from the date of notification of the intention

to provisionally award the contract. To this end, the Legal Affairs Department ensures that the draft contract is made available within the moratorium period of fifteen (15) calendar days.

#### **ARTICLE 4: ENTRY INTO FORCE**

This Regulation **C/REG.34/12/21** shall enter into force from the date of its signature by the Chairman of the ECOWAS Council of Ministers.

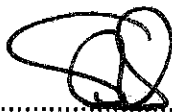
#### **ARTICLE 3: PUBLICATION**

1. This Regulation **C/REG.34 /12/21** shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature by the President of the Council of Ministers.
2. It shall also be published by each Member State in its Official Journal within the abovementioned period from its notification by the Commission.

**DONE AT ABUJA ON 10 DECEMBER 2021**

**FOR THE COUNCIL**

**THE PRESIDENT**



**H.E SHIRLEY AYORKOR BOTCHWEY**



## **EIGHTY SEVENTH ORDINARY SESSION OF THE ECOWAS COUNCIL OF MINISTERS**

Abuja, 9 - 10 December 2021

### **REGULATION C/REG. 35/12/21 EXTENDING TO JUNE 2022 THE TENURE OF THE STATUTORY APPOINTEES OF THE COMMISSION, GIABA AND WAHO**

#### **THE COUNCIL OF MINISTERS,**

**MINDFUL OF** Articles 10, 11 and 12 of the Revised ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

**MINDFUL OF** Article 2 of Additional Protocol A/SP/06/06, amending Articles 17 and 18 of the Revised ECOWAS Treaty relating to the establishment, composition and appointment of Commissioners;

**MINDFUL OF** Decision A/DEC.16/01/06 transforming the Executive Secretariat into a Commission;

**MINDFUL** of Supplementary Act A/SP.14/02/12 on the Modalities of Allocation of the positions of the President, Vice President, other Commissioners of the Commission and other statutory Appointees of ECOWAS Institutions;

**MINDFUL OF DECISION A/DEC. 2/12/21** extending until June 2022 the mandate of the tenure of the statutory appointees of the Commission, GIABA and WAHO

**CONSIDERING** that the mandate of the statutory Appointees of the ECOWAS Commission , GIABA and WAHO, is due to end in February 2022;

**CONVINCED** of the need to extend the tenure of the statutory appointees in the ECOWAS Commission, GIABA and WAHO in order to complete the Institutions reform of the Community and to facilitate the allocation of statutory posts;

#### **ENACTED:**

##### **Article 1: Extension of the mandate**

**1.** The mandate of the following Statutory appointees shall be extended:

- a. The Vice-President of the ECOWAS Commission, Finda Koroma
- b. Finance Commissioner: Halima Ahmaed
- c. Commissioner for Macroeconomic Policy Affairs and Economic Research: Kofi Konadu Apraku
- d. Commissioner for Trade, Customs and Free Movement: Tédi Konzi
- e. Commissioner for Agriculture, Environment and Water Resources: Sékou Sangaré
- f. Commissioner for Infrastructure: Pathé Gueye
- g. Commissioner for Political Affairs, Peace and Security: Francis Béhanzin
- h. Commissioner for Social Affairs and Gender: Siga Fatima Jagne
- i. Commissioner for General Administration and Conferences: Vafolay Mbande Tulay
- j. Commissioner for Human Resources: Jeremias Dias Furtado
- k. Commissioner for Education Science and Culture: Mamadu Jau
- l. Commissioner for Energy and Mines: Sédiko Douka
- m. Commissioner for Telecommunications and Technology of Information: Zouli Bonkougou
- n. Commissioner for Industry and Promotion of the Secteur Privé : Mamadou Traoré
- o. Auditor General of ECOWAS Institutions: Alfred Mahamadu Braimah
- p. Director General of the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA): Kimelabalou Aba
- q. Director General of the West African Health Organization (WAHO) : Stanley Okolo

2. The tenure of the abovementioned statutory appointees expiring on 28 February 2022 shall be extended until the end of June 2022.

#### **Article 4: Entry into force and Publication**

This Regulation shall enter into force, upon signature of the President of the Council of Ministers. It shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature by the President of the Council of Ministers. It shall also be published by each Member State in its national Official Journal within 30 days of its notification by the Commission.

**DONE AT ABUJA, 10 DECEMBER 2021**

**FOR THE COUNCIL**

**THE PRESIDENT**



**H.E. SHIRLEY AYORKOR BOTCHWEY**



## **EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

Abuja, 9 -10 December 2021.

### **RECOMMENDATION C/REC.1/12/21 SETTING THE CONDITIONS AND MODALITIES FOR COMMUNITY LEVY IMPLEMENTATION AND MANAGEMENT**

#### **THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty, establishing the Council of Ministers, and defining its composition and functions;

**MINDFUL** of Article 72 of the Revised ECOWAS Treaty instituting a Community Levy for the purpose of generating resources with which to fund Community activities;

**MINDFUL** of Supplementary Act A/SA.13/02/12 on the sanctions regime against Member States which fail to honour their obligations to ECOWAS;

**MINDFUL** of Decision A/DEC.17/01/06 adopting the ECOWAS Common External Tariff (ECOWAS CET);

**MINDFUL** of Supplementary Act A/SA.1/06/09 amending Decision A/DEC.17/01/06 adopting the ECOWAS CET;

**MINDFUL** of Supplementary Act A/SA.1/06/12 adopting the ECOWAS Humanitarian Policy;

**MINDFUL** of Supplementary Act A/SA.2/06/12 adopting the ECOWAS Science, Technology and Innovation Policy (ECOPOST);

**MINDFUL** of Supplementary Act A/SA.2/12/17 adopting the ECOWAS Customs Code;

**MINDFUL** of Supplementary Act A/SA.7/12/18 establishing the Community rules of origin and procedures applicable to goods originating in ECOWAS;

**MINDFUL** of Regulation C/Reg.23/11/18 adopting the Financial Regulations of Institutions of the Economic Community of West African States (ECOWAS);

**DESIROUS** of defining the conditions and modalities for Community Levy implementation and management which will optimise the level of output in order to ensure Community projects and programmes are fully funded with positive impact on the welfare of Community citizens;

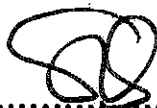
**CONVINCED** of the need to put in place reliable collection and payment procedures, to secure resources and thereby forestall revenue loss due to non-compliance with the provisions on deposit of assessed Community Levy;

**BEARING IN MIND** that in some cases, goods may be imported under duty-free arrangements generally arising from multilateral international conventions to which Member States are Contracting Parties and that the Community must apply these conventions in accordance with the requirements of the customs union;

**ON THE OPINION OF PARLIAMENT** at its 2<sup>nd</sup> ordinary session held on 30 November to 18 December, 2021 in Abuja;

**RECOMMENDS** to the sixtieth ordinary session of the Authority of Heads of State and Government to adopt the Supplementary Act A/SA.1/12/21 relating to the conditions and modalities for community levy implementation and management attached hereto as an annex.

**DONE AT ABUJA, THIS 10<sup>TH</sup> OF DECEMBER 2021**



.....  
**H.E. SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**



## **EIGHTY SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

**Abuja, 9 -10 December 2021**

### **RECOMMENDATION C/REC. 1/ 2 /21 REDUCING THE MANAGEMENT CADRE OF THE ECOWAS COMMISSION TO SEVEN (7 ) COMMISSIONERS**

#### **THE COUNCIL OF MINISTERS**

**MINDFUL** of Articles 10,11 and 12 of the ECOWAS Revised Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Article 17 and 18 of the ECOWAS Revised Treaty as amended by Article 2 of Supplementary Protocol A/SP/06/06 on the Establishment and Composition of the Commission, as well as the appointment of Commissioners respectively;

**MINDFUL** of Decision A/DEC.16/01/06 transforming the Executive Secretariat into a Commission;

**MINDFUL** of Supplementary Act A/SP.14/02/12 on the Modalities of Allocation of the positions of the President, Vice President, other Commissioners of the Commission and other statutory Appointees of ECOWAS Institutions;

**RECALLING** Decision A/DEC.4/02/13 Expanding the Management Cadre of the ECOWAS Commission and Increasing the Number of the Commissioner Positions to Fifteen (15 );

**CONSIDERING** that at the Extraordinary Meeting of the Authority of Heads of State and Government, held in Accra on 2<sup>nd</sup> February 2021, it adopted a seven (7 ) member Commission as the size of the Commission beginning March 2022;

**ACKNOWLEDGING** that the need to reduce the size of the Commission was necessitated by the heightened financial challenges faced by Member States and reforming the institutional structures of the Commission will reduce the financial burden on Member States;

**AWARE** that the reduction in size of the Commission would also reduce the number of Departments requiring the merging and regrouping of areas and Departments which have affinity with one another;

**DESIRIOUS** of reducing the size of the Commission to generate savings and ensure efficient management of available resources;

**ON THE RECOMMENDATION** of the Extraordinary Session of the ECOWAS Council of Ministers on Institutional Reform held in Accra on 5<sup>th</sup> October 2021.

**RECOMMENDS**

**TO THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT** to reduce the Management Cadre of the ECOWAS Commission to Seven (7 ) Commissioners.

**DONE IN ABUJA THIS 10 DAY OF DECEMBER 2021**

**FOR THE COUNCIL**

**THE CHAIRPERSON**



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**H.E SHIRLEY AYORKOR BOTCHWEY**



## **EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

Abuja, 9 - 10 December 2021.

### **RECOMMENDATION C/REC.2/12/21 RELATING TO THE ECOWAS COMMUNITY TRANSIT**

#### **THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the Ecowas Revised Treaty, as amended, establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Article 3, paragraph 2, subparagraph (a) of the said Treaty, stipulating that the action of the Community will be focused on the harmonization and coordination of national policies, in particular in the financial and fiscal fields;

**MINDFUL** of Articles 45 and 46 of the said Treaty relating to transit, cooperation and customs administration;

**MINDFUL** of Article 46 of the revised ECOWAS Treaty, urging Member States to take all necessary measures to harmonize all their national regulations and formalities in order to guarantee the effective implementation of the provisions on cooperation in the customs and tax areas and the movement of goods and services across borders;

**CONSIDERING** the principle of freedom of transit enshrined in Article 45 of the Revised Treaty of ECOWAS and Article 11 of the WTO Agreement on Trade Facilitation;

**MINDFUL** of the additional act A/SA.2/12/17 adopting the ECOWAS Customs Code, in particular articles 33, 35 and 200 to 209;

**HAVING REGARD** to the Customs Convention on the International Transport of Goods within the Framework of TIR Carnets (TIR Convention of 1975) signed in Geneva on November 14, 1975;

**ACCEPTING** the principles of the International Convention on the Harmonization of Frontier Control of Goods, signed in Geneva on October 21, 1982;

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**CONSIDERING** the Convention on Transit Trade of Landlocked States, adopted in New York on July 8, 1965;

**CONSIDERING** the World Customs Organization (WCO) Guidelines on Transit;

**CONSIDERING** the Agreement on Trade Facilitation of the World Trade Organization (WTO), which entered into force on February 22, 2017;

**AWARE** of the need to modernize transit operations in ECOWAS Member States in accordance with the provisions of the World Customs Organization Transit Directives, published in Brussels in July 2017;

**DESIROUS** of facilitating trade and securing the international logistics chain in accordance with the provisions of the Trade Facilitation Agreement of the World Trade Organization (WTO), the International Convention for the Simplification and Harmonization of Customs Regimes (Revised Kyoto Convention, as amended) of the World Customs Organization (WCO) and the Framework of Security Standards to Secure and Facilitate World Trade of the World Customs Organization (WCO);

**CONVINCED** that an efficient community transit system will contribute very effectively to the economic competitiveness and development of ECOWAS Member States;

**NOTING** the important role of the simplification, rationalization and standardization of transit procedures and documentation, as well as the application of information and communication technologies, in improving the efficiency of transit systems;

**AWARE** of the proper functioning of the guarantee system, which makes it possible to speed up transit operations and respond to the concerns of countries in transit in terms of revenue;

**CONSIDERING** Article 125 of the United Nations Convention on the Law of the Sea (UNCLOS), which grants landlocked countries the rights of transit through the territory of neighboring countries in order to access the sea;

**DESIROUS** of ensuring the integration of the landlocked member states of ECOWAS into the regional, continental and world economies through an efficient community transit system, in accordance with the Almaty Program of Action of August 2003, of the Office of the Haut United Nations Representative for the Least Developed Countries, Landlocked

C/REC.2/12/21

Developing Countries and Small Island Developing States (UN-OHRLLS), one of whose objectives is to meet the special needs of Landlocked Developing Countries and create a new Global Framework for Transit Transport Cooperation between Landlocked and Transit Developing Countries;

**DETERMINED** to contribute to the transformation of landlocked ECOWAS Member States into land-linked countries through an efficient transit system, in accordance with the Vienna Program of Action for Landlocked Developing Countries for the decade 2014-2024 the Office of the United Nations High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States (UN-OHRLLS);

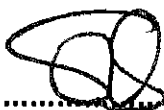
**FOLLOWING** validation by the meeting of regional experts held from 21 to 23 April, 2021 in Abidjan, Côte D'Ivoire;

**ON THE RECOMMENDATION** of the Meeting of the Finance Ministers of ECOWAS Member States held in Accra on 12 November 2021;

**ON THE OPINION** of the second ordinary session of the ECOWAS Parliament held from 30 November to 18 December, 2021;

**RECOMMENDS** to the Sixtieth Ordinary Session of the Assembly of Heads of State and Government to adopt this Supplementary Act A/SA.2/12/21 relating to The ECOWAS Community Transit.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



**H.E. SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**

**C/REC.2/12/21**



## **EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

Abuja, 9-10 December 2021.

### **RECOMMENDATION C/REC.3/12/21 RELATING TO THE AMENDMENT OF ADDITIONAL ACT A/SA.2/12/08 ON THE ESTABLISHMENT, POWERS AND FUNCTIONING OF THE ECOWAS REGIONAL COMPETITION AUTHORITY (ERCA)**

#### **THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the Ecowas Revised Treaty, establishing the Council of Ministers, and defining its composition and functions;

**MINDFUL** of Article 3 of the said Treaty, providing for the harmonization and coordination of national policies in trade matters, as a means of maintaining and improving economic stability in the sub-region;

**MINDFUL** of Supplementary Act A/SA.2/12/08 on the adoption of community competition rules and the terms of their application;

**BEARING IN MIND** that the economy of the ECOWAS common market must be efficient and competitive in order to promote and facilitate the conditions necessary for economic growth in the region;

**REAFFIRMING** that the implementation of the Community Competition Rules is necessary to promote the economic integration of the Member States and stimulate economic growth at the regional level;

**RECALLING** that the ECOWAS Regional Competition Authority was created by Supplementary Act A/SA.2/12/08 for the effective implementation of competition rules;

**NOTING** that the rigorous application of competition rules requires endowing the said Authority with adequate procedural rules;


**AWARE** of the need to create a Council of the Regional Competition Authority of ECOWAS in order to guarantee the implementation of the principle of the separation of powers between the investigating authority, which is the Executive Directorate of the ARCC and the one responsible for decision-making;

**DESIROUS** of amending Supplementary Act A/SA.2/12/08 establishing, attributions and functioning of the ECOWAS Regional Competition Authority in order to align its provisions with international and regional standards and best practices in competition matters;

**UPON THE OPINION OF THE ECOWAS PARLIAMENT** at its 2<sup>nd</sup> Ordinary Session held at Abuja from 30 November to 18 December 2021;

**RECOMMENDS** to the Sixtieth Ordinary Session of the Authority of Heads of State and Government to adopt this Supplementary Act relating to the Amendment of Supplementary Act A/SA.2/12/08 on the establishment, powers and functioning of the ECOWAS Regional Competition Authority attached hereto as an annex.

**DONE AT ABUJA, THIS 2ND DAY OF DECEMBER 2021**



.....  
**H.E. SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**



## **EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

ABUJA, 10 DECEMBER, 2021

### **RECOMMENDATION C/REC.4/12/21 RELATING TO THE ADOPTION OF THE ECOWAS ROAD SAFETY POLICY**

#### **THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 9, 10, 11 and 12 of the ECOWAS Revised Treaty as amended establishing the Council of Ministers and defining its composition and functions;

**MINDFUL** of Article 32 of the said Revised Treaty by which member States undertake to develop a common policy on transport and communication with a view to developing a vast network of motorable and safe roads;

**MINDFUL** of Decision, A/DEC.20/5/80 relating to the Community Transport Programme;

**MINDFUL** of Convention, A/P.2/5/82 regulating Inter-state Road Transportation between ECOWAS Member States stipulating that the Community's action will focus on the harmonious development of the system of road transportation;

**MINDFUL** of the Decision, A/DEC.6/7/96 establishing standards for the design of community roads in the ECOWAS region;

**MINDFUL** of the Supplementary Protocol, A/SP.2/12/01 on the establishment of an ECOWAS Brown card relating to motor vehicle third party liability insurance;

**MINDFUL** of the Supplementary Act SA.17/02/12 on the control of the size, weight and axle load of heavy goods and vehicles;

**MINDFUL** of Regulation C/REG.9/7/96 relating to the creation by each Member State of an autonomous fund for Road Maintenance;

**TAKING INTO ACCOUNT** the instruments of the African Union particularly the Road Safety Charter, the Declaration Assembly/AU/Decl.2 (XVII) on the Programme for Infrastructure and Development in Africa (PIDA) and its Priority Action Plan (PAP) and the Institutional Architecture for Infrastructure Development in Africa (IAIDA);

**RECALLING** the relevant international conventions in transport matters especially in the areas of safety and security, the protection of the environment as well as facilitation of transport.

**CONSIDERING** that the state of road infrastructure in ECOWAS needs improvement in its multi-sectorial dimensions, particularly in the areas of accident prevention, and all other safety measure, health for both road users and vehicles that ply the roads;

**DESIROUS** of adopting an ECOWAS Road Safety Policy;

**ON THE RECOMMENDATION** of the ECOWAS Ministers in charge of Road Traffic Safety and Transport held on 5 November 2021 by Video Conference;

**ON THE OPINION OF THE ECOWAS PARLIAMENT** at its second ordinary session held from 30 November to 18 December 2021 in Abuja;

**HEREBY RECOMMENDS** to the Sixtieth Ordinary Session of the Authority of Heads of State and Government to adopt the Supplementary Act A/SA.4/12/21 relating to the adoption of the ECOWAS Road Safety Policy attached as an annex.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



.....  
**H.E. SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**



## **EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

Abuja, 9 – 10 December 2021

### **RECOMMENDATION C/REC.5/12/21 RELATING TO THE ADOPTION OF THE POLICY FOR PUBLIC-PRIVATE PARTNERSHIP AND ITS GUIDING PRINCIPLES IN THE AREA OF REGIONAL PROJECTS**

#### **THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Treaty, as amended, establishing the Authority of Heads of State and Government and defining its composition and functions;

**MINDFUL** of Article 67 of the ECOWAS Treaty encouraging Member States to consult with one another, through appropriate Community Institutions, for the purpose of harmonizing and coordinating their respective policies in fields not specifically covered by the Treaty to allow for the efficient functioning and development of the Community;

**RECALLING** the extraordinary summit of heads of state and government held in Accra in 2004 during which development agencies identified priority programs that could accelerate development of infrastructure programs of ECOWAS within the framework of NEPAD;

**MINDFUL** of Regulation C/REG.18/01/05 relating to the creation within the ECOWAS Executive Secretariat of a unit for the development and implementation of NEPAD infrastructure projects;

**TAKING INTO ACCOUNT** the ECOWAS Vision 2050, which purpose is to create a Community of peoples fully integrated by means of transport infrastructure of all types for the sustainable and inclusive development that respects human rights;

**NOTING** that public-private partnerships are a proven method for development of infrastructure widely used internationally by states to provide development and services to the public;

**NOTING ALSO** that this new structure of institutional relationship is not widely used at the national levels and also ECOWAS legal texts did not previously regulate this situation;

**CONSCIOUS** that structured guidelines will go a long way to facilitate the implementation of a regional PPP policy and ensure development of the desired infrastructure;

**C/REC.5/12/21**

**CONVINCED** that the new 25-year ECOWAS Regional Infrastructure Development Master Plan (2020-2045) which sets out the framework for developing transport, energy, information and communication

technology and water resources projects to support regional integration and digital transformation requires significant private sector financing;

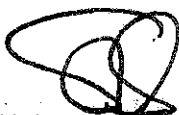
**DESIROUS** of adopting a set of guidance documents, in the form of a policy and guidelines, for the purpose of identifying, developing and implementing regional public-private partnership projects;

**ON THE RECOMMENDATION** of the ECOWAS Ministers in charge of Road Traffic Safety and Transport held on 26 October 2021 by Video Conference;

**UPON THE OPINION OF THE ECOWAS PARLIAMENT** at its second ordinary session held in Abuja on 30 November to 18 December 2021;

**HEREBY RECOMMENDS** to the Sixtieth Ordinary Session of the Authority of Heads of State and Government to adopt Supplementary Act A/SA.5/12/21 adopting the Policy for Public-Private Partnership and its guiding principles in the area of regional projects, attached hereto.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



.....  
**H.E. SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**

**C/REC.5/12/21**



## **EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

Abuja, 9-10 December 2021.

### **RECOMMENDATION C/REC.6/12/21 RELATING TO THE ADOPTION OF THE ECOWAS VISION 2050**

#### **THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the ECOWAS Revised Treaty, establishing the Council of Ministers, and defining its composition and functions;

**MINDFUL** of Article 67 of the ECOWAS Treaty encouraging Member States to consult with one another, through appropriate Community institutions, for the purpose of harmonizing and coordinating their respective policies in fields not specifically covered by the Treaty;

**RECALLING** Article 7 of the said Revised Treaty which prescribes that the Authority shall take all measures to ensure the progressive development of the Community and realization of its objectives;

**CONSCIOUS** that the programs and projects actually implemented in the ECOWAS region necessitate after monitoring and evaluation, a new orientation of our vision 2050 for the development of the Community;

**CONSCIOUS ALSO** that effective execution of different strategies and sectorial policies adopted at the national or regional level also necessitate a reorientation in order to deepen the processes of regional integration anchored by the Vision 2050;

**CONVINCED** that the ECOWAS Vision 2050, will create a Community of peoples fully integrated by means of all infrastructures namely transport, health, energy and others in order to achieve inclusive development of the society that respects human rights;

**CONVINCED ALSO** that the adoption of a well elaborated Vision 2050 and its activities which are eligible for funding could develop the ECOWAS region;

**DESIROUS** of adopting the ECOWAS Vision 2050;

**ON THE RECOMMENDATION** of the multi-sectoral meeting of ECOWAS Ministers in charge of Planning, Finance and Integration held by Videoconference on 9 November 2021;

**ON THE OPINION OF THE ECOWAS PARLIAMENT** at its second ordinary session held in Abuja on 30 November to 18 December 2021;

**RECOMMENDS** to the Sixtieth Ordinary Session of the Authority of Heads of State and Government to adopt the Supplementary Act A/SA.6/12/21 on the Adoption of the ECOWAS Vision 2050 attached hereto as an annex.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



.....  
**H.E. SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**



## **EIGHTY-SEVENTH ORDINARY SESSION OF THE COUNCIL OF MINISTERS**

Abuja, 9-10 December 2021.

### **RECOMMENDATION C/REC.7/12/21 RELATING TO THE ADOPTION OF THE ECOWAS MONITORING AND EVALUATION POLICY**

#### **THE COUNCIL OF MINISTERS,**

**MINDFUL** of Articles 10, 11 and 12 of the Ecowas Revised Treaty, establishing the Council of Ministers, and defining its composition and functions;

**MINDFUL** of Article 7 of the said Revised Treaty which prescribes that the Authority shall be responsible for the general direction and control of the Community and shall take all measures, namely the monitoring and evaluation;

**CONSCIOUS** that the programs and projects actually implemented in the region necessitate monitoring and evaluation, in order to achieve the objectives of the ECOWAS Vision 2050;

**CONSCIOUS ALSO** that effective execution of different strategies and sectorial policies adopted by the regional level also necessitate the deployment of the mechanism of monitoring and evaluation in order to achieve effectiveness and efficiency in the realization of the assigned objectives of the sectorial projects;

**NOTING** that the ECOWAS region actually executes several infrastructural projects on transport, health, energy and others which necessitate monitoring and evaluation in view of their performativeness;

**CONVINCED** that the adoption of a regional policy of monitoring and evaluation will assist to bring projects into coherence with the expected results of Community projects;

**DESIROUS** of adopting the ECOWAS Monitoring and Evaluation Policy;

**ON THE RECOMMENDATION** of the meeting of ECOWAS Ministers in charge of Planning held by Videoconference on 12 January 2021;

**ON THE OPINION OF THE ECOWAS PARLIAMENT** at its second ordinary session held in Abuja on 30 November to 18 December 2021;

**RECOMMENDS** to the Sixtieth Ordinary Session of the Authority of Heads of State and Government to adopt the Supplementary Act A/SA.7/12/21 on the Adoption of the ECOWAS Vision 2050 attached hereto as an annex.

**DONE AT ABUJA, THIS 10<sup>TH</sup> DAY OF DECEMBER 2021**



.....  
**H.E. SHIRLEY AYORKOR BOTCHWEY**

**THE CHAIRPERSON**

**FOR THE COUNCIL**