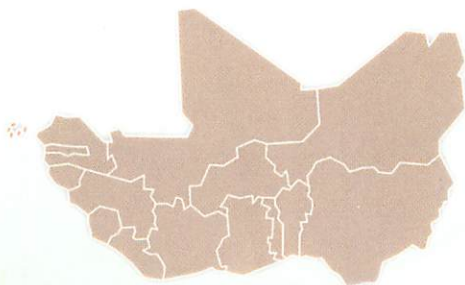




THE ECOWAS TRADE LIBERALISATION SCHEME

PROTOCOLS AND REGULATIONS



PUBLISHED BY THE
ECOWAS EXECUTIVE SECRETARIAT, ABUJA, NIGERIA



ECONOMIC COMMUNITY OF WEST AFRICAN STATES

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May 2004

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I. EXTRACTS FROM THE ECOWAS REVISED TREATY

PREAMBLE

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

The President of the Republic of BENIN
The President of BURKINA FASO
The Prime Minister of the Republic of CAPE VERDE
The President of the Republic of COTE D'IVOIRE
The President of the Republic of The GAMBIA
The President of the Republic of GHANA
The President of the Republic of GUINEA
The President of the Republic of GUINEA BISSAU
The President of the Interim Government of
National Unity of the Republic of LIBERIA
The President of the Republic of MALI
The President of the Islamic Republic of MAURITANIA
The President of the Republic of NIGER
The President of the Federal Republic of NIGERIA
The President of the Republic of SENEGAL
The Head of State and Chairman of the
National Provisional Ruling Council of the Republic of SIERRA LEONE
The President of the TOGOLESE Republic

REAFFIRMING the Treaty establishing the Economic Community of West African States signed in Lagos on 28 May, 1975 and considering its achievements;

CONSCIOUS of the over-riding need to encourage, foster and accelerate the economic and social development of our States in order to improve the living standards of our peoples;

CONVINCED that the promotion of harmonious economic development of our States calls for effective economic co-operation and integration largely through a determined and concerted policy of self-reliance;

BEARING IN MIND the African Charter on Human and People's Rights and the Declaration of Political Principles of the Economic Community of West African States adopted in Abuja by the Fourteenth Ordinary Session of the Authority of Heads of State and Government on 6 July, 1991;

CONVINCED that the integration of the Member States into a viable regional Community may demand the partial and gradual pooling of national sovereignties to the Community within the context of a collective political will;

ACCEPTING the need to establish Community Institutions vested with relevant and adequate powers;

NOTING that the present bilateral and multilateral forms of economic co-operation within the region open up perspectives for more extensive co-operation;

ACCEPTING the need to face together the political, economic and socio-cultural challenges of the present and the future, and to pool together the resources of our peoples while respecting our diversities for the most rapid and optimum expansion of the region's productive capacity;

BEARING IN MIND ALSO the Lagos Plan of Action and the Final Act of Lagos of April 1980 stipulating the establishment, by the year 2000, of an African Economic Community based on existing and future regional economic communities;

MINDFUL OF the Treaty establishing the African Economic Community signed in Abuja on 3 June, 1991;

AFFIRMING that our final goal is the accelerated and sustained economic development of Member States, culminating in the economic union of West Africa;

BEARING IN MIND our Decision A/DEC.1015190 of 30 May, 1990 relating to the establishment of a Committee of Eminent Persons to submit proposals for the review of the Treaty:

AWARE that the review of the treaty arises, inter alia, from the need for the Community to adapt to the changes on the international scene in order to derive greater benefits from those changes;

CONSIDERING ALSO the need to modify the Community's strategies in order to accelerate the economic integration process in the region;

ACCEPTING the need to share the benefits of economic co-operation and integration among Member States in a just and equitable manner;

HAVE DECIDED to revise the Treaty of 28 May, 1975 establishing the Economic Community of West African States (ECOWAS) and have accordingly agreed as follows:

CHAPTER I DEFINITIONS

ARTICLE 1

For the purpose of this Treaty,

"Arbitration Tribunal" means the Arbitration Tribunal of the Community established under Article 16 of this Treaty;

"Authority" means the Authority of Heads of State and Government of the Community established by Article 7 of this Treaty;

"Chairman of the Authority" means the current Chairman of the Authority of Heads of State and Government of the Community, elected in accordance with the provisions of Article 8.2 of this Treaty;

"Council" means the Council of Ministers of the Community established under Article 10 of this Treaty;

"Commission" means the Specialised Technical Commission established under article 22 of this Treaty;

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

"Community citizen or citizens" means any national (s) of Member States who satisfy the conditions stipulated in the Protocol defining Community citizenship;

"Court of Justice" means the Court of Justice of the Community established under Article 15 of this Treaty;

"Import Duties" means customs duties and taxes of equivalent effect, levied on goods by virtue of their importation;

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

"Economic and Social Council" means the Economic and Social Council established under Article 14 of this Treaty;

"Executive Secretariat" means the Executive Secretariat established under Article 17 of this Treaty;

"Export Duties" means all customs duties and taxes of equivalent effect levied on goods by virtue of their exportation;

"Fund" means the Fund for Co-operation, Compensation and Development established under Article 21 of this Treaty;

"Member State" of "Member States" means a Member State or Member States of the Community as defined in paragraph 2 of Article 2 of this Treaty;

"Non-Tariff Barriers" means barriers which hamper trade and which are caused by obstacles other than fiscal obstacles;

"Parliament of the Community" means the Parliament established under Article 13 of this Treaty;

"Protocol" means an instrument of implementation of the Treaty having the same legal force as the latter;

"Region" means the geographical zone known as West Africa as defined by Resolution CM/Res.464 (XXVI) of the OAU Council of Ministers;

"Statutory Appointees" includes the Executive Secretary, Deputy Executive Secretaries, Managing Director of the Fund, Deputy Managing Director of the Fund, Financial Controller and any other senior officer of the Community designated as such by the Authority or Council;

"Third Country" means any State other than a Member State;

"Treaty" means this revised Treaty.

CHAPTER II: AIMS AND OBJECTIVES

ARTICLE 3 : AIMS AND OBJECTIVES

1. The aims of the Community are to promote co-operation and integration, leading to the establishment of an economic union in West Africa in order to raise the living standards of its peoples, and to maintain and enhance economic stability, foster relations among Member States and contribute to the progress and development of the African Continent.
2. In order to achieve the aims set out in the paragraph above, and in accordance with the relevant provisions of this Treaty, the Community shall, by stages, ensure;
 - a) the harmonisation and co-ordination of national policies and the promotion of integration programmes, projects and activities, particularly in food, agriculture and natural resources, industry, transport and communications, energy, trade, money and finance, taxation, economic reform policies, human resources, education, information, culture, science, technology, services, health, tourism, legal matters;
 - b) the harmonisation and co-ordination of policies for the protection of the environment;
 - c) the promotion of the establishment of joint production enterprises;
 - d) the establishment of a common market through:
 - i) the liberalisation of trade by the abolition, among Member States, of customs duties levied on imports and exports, and the abolition among Member States, of non-tariff barriers in order to establish a free trade area at the Community level;
 - ii) the adoption of a common external tariff and a common trade policy vis-à-vis third countries;
 - iii) the removal, between Member States, of obstacles to the free movement of persons, goods, service and capital, and to the right of residence and establishment;
 - e) the establishment of an economic union through the adoption of common policies in the economic, financial social and cultural sectors, and the creation of a monetary union.
 - f) the promotion of joint ventures by private sectors enterprises and other economic operators, in particular through the adoption of a regional agreement on cross-border investments;

- g) the adoption of measures for the integration of the private sectors, particularly the creation of an enabling environment to promote small and medium scale enterprises;
- h) the establishment of an enabling legal environment;
- i) the harmonisation of national investment codes leading to the adoption of a single Community investment code;
- j) the harmonisation of standards and measures;
- k) the promotion of balanced development of the region, paying attention to the special problems of each Member State particularly those of landlocked and small island Member States;
- l) the encouragement and strengthening of relations and the promotion of the flow of information particularly among rural populations, women and youth organisations and socio-professional organisations such as associations of the media, business men and women, workers, and trade unions;
- m) the adoption of a Community population policy which takes into account the need for a balance between demographic factors and socioeconomic development;
- n) the establishment of a fund for co-operation, compensation and development; and
- o) any other activity that Member States may decide to undertake jointly with a view to attaining Community objectives.

CHAPTER VIII COOPERATION IN TRADE, CUSTOMS, TAXATION, STATISTICS, MONEY AND PAYMENTS

ARTICLE 35 : LIBERALISATION OF TRADE

There shall be progressively established in the course of a period of ten (10) years effective from 1 January, 1990 as stipulated in Article 54, a Customs Union among the Member States. Within this union, Customs duties or other charges with equivalent effect on Community originating imports shall be eliminated.

Quota, quantitative or like restrictions or prohibitions and administrative obstacles to trade among the Member States shall also be removed. Furthermore, a common external tariff in respect of all goods imported into the Member States from third countries shall be established and maintained.

ARTICLE 36 : CUSTOMS DUTIES

1. Member States shall reduce and ultimately eliminate Customs duties and any other charges with equivalent effect except duties notified in accordance with Article 40 and other charges which fall within that Article, imposed on or in connection with the importation of goods which are eligible for Community tariff treatment in accordance with Article 38 of this Treaty. Any such duties or other charges are herein after referred to as "import duties."
2. Community-originating unprocessed goods and traditional handicraft products shall circulate within the region free of all import duties and quantitative restrictions. There shall be no compensation for loss of revenue resulting from the importation of these products.
3. Member States undertake to eliminate import duties on industrial goods which are eligible for preferential Community tariff treatment in accordance with the decisions of the Authority and Council relating to the liberalisation of intra-Community trade in industrial products.
4. The Authority may at any time, on the recommendation of the Council, decide that any import duties shall be reduced more rapidly or eliminated earlier than stipulated in any previous instrument or decision. However, the Council shall, not later than one calendar year preceding the date in which such reductions or eliminations come into effect, examine whether such reductions or eliminations shall apply to some or all goods and in respect of some or all the Member States and shall report the result of such examination for the decision of the Authority.

ARTICLE 37 : COMMON EXTERNAL TARIFF

1. Member States agree to the gradual establishment of a common external tariff in respect of all goods imported into the Member States from third countries in accordance with a schedule to be recommended by the Trade, Customs, Taxation, Statistics, Money and Payments Commission.
2. Member States shall, in accordance with a schedule to be recommended by

the Trade, Customs, Taxation, Statistics, Money and Payments Commission, abolish existing differences in their external Customs tariffs.

3. Member States undertake to apply the common Customs nomenclature and Customs statistical nomenclature adopted by Council.

ARTICLE 38 : COMMUNITY TARIFF TREATMENT

1. For the purposes of this Treaty, goods shall be accepted as eligible for Community tariff treatment if they have been consigned to the territory of the importing Member States from the territory of another Member State and originate from the Community.
2. The rules governing products originating from the Community shall be as contained in the relevant Protocols and Decisions of the Community.
3. The Trade, Customs, Taxation, Statistics, Money and Payments Commission shall from time to time examine whether the rules referred to in paragraph 2 of this Article can be amended to make them simpler and more liberal. In order to ensure their smooth and equitable operation, the Council may from time to time amend them.

ARTICLE 39 : TRADE DEFLECTION

1. For the purposes of this Article, trade is said to be deflected if,
 - (a) imports of any particular product by a Member State from another Member State increase,
 - (i) as a result of the reduction or elimination of duties and charges on that product, and
 - (ii) because duties and charges levied by the exporting Member States on imports of raw materials used for manufacture of the product in question are lower than the corresponding duties and charges levied by the importing Member State; and
 - (b) this increase in imports causes or could cause serious injury to production which is carried on in the territory of the importing Member State.
2. The Council shall keep under review the question of trade deflection and its causes. It shall take such decisions as are necessary, in order to deal with the causes of this deflection.

3. In case of trade deflection to the detriment of a Member State resulting from the abusive reduction or elimination of duties and charges levied by another Member State, the Council shall study the question in order to arrive at a just solution.

ARTICLE 40 : FISCAL CHARGES AND INTERNAL TAXATION

1. Member States shall not apply directly or indirectly to imported goods from any Member State fiscal charges in excess of those applied to like domestic goods or otherwise impose such charges for the effective protection of domestic goods.
2. Member States shall eliminate all effective internal taxes or other internal charges that are made for the protection of domestic goods not later than four (4) years after the commencement of the trade liberalisation scheme referred to in Article 54 of this Treaty. Where by virtue of obligations under an existing contract entered into by a Member State such a Member State is unable to comply with the provisions of this Article, the Member State shall duly notify the Council of this fact and shall not extend or renew such contract at its expiry.
3. Member States shall eliminate progressively all revenue duties designed to protect domestic goods not later than the end of the period for the application of the trade liberalisation scheme referred to in Article 54 of this Treaty.
4. Member States undertake to be bound by the consolidated import duties contained in the ECOWAS Customs Tariff for the purposes of trade liberalisation within the Community.
5. Member States undertake to avoid double taxation of Community citizens and grant assistance to one another in combating international tax evasion.

The conditions and modalities for granting such assistance shall be as contained in a Double Taxation and Assistance Convention.

ARTICLE 41 : QUANTITATIVE RESTRICTIONS ON COMMUNITY GOODS

1. Except as may be provided for or permitted by this Treaty, Member States undertake to relax gradually and to remove over a maximum period of four (4) years after the launching of the trade liberalisation scheme referred to in Article 54, all the then existing quota, quantitative or like restrictions or prohibitions

which apply to the import into that State of goods originating in the other Member States and thereafter refrain from imposing any further restrictions or prohibitions.

Whereby virtue of obligations under an existing contract entered into by a Member State such a Member State is unable to comply with the provisions of this Article, the member State shall duly notify Council of this fact and shall not extend or renew such contract at its expiry.

2. The Authority may at any time, on the recommendation of the Council decide that any quota, quantitative or like restrictions or prohibitions shall be relaxed more rapidly or removed earlier than agreed upon under paragraph 1 of this Article.
3. A Member State may, after having given notice to the Executive Secretary and the other Member States of its intention to do so, introduce or continue to execute restrictions or prohibitions affecting:
 - (a) the application of security laws and regulations;
 - (b) the control of arms, ammunition and other war equipment and military items;
 - (c) the protection of human, animal or plant health or life, or the protection of public morality;
 - (d) the transfer of gold, silver and precious and semi-precious stones;
 - (e) the protection of national artistic and cultural property;
 - (f) the control of narcotics, hazardous and toxic wastes, nuclear materials, radioactive products or any other material used in the development or exploitation of nuclear energy.
5. Member States shall not so exercise the right to introduce or continue to execute the restrictions or prohibitions referred to in paragraph 3 of this Article as to stultify the free movement of goods envisaged in paragraph 1 of this Article.

ARTICLE 42 : DUMPING

1. Member States undertake to prohibit the practice of dumping goods within the Community.
2. For the purposes of this Article, "dumping" means the transfer of goods originating in a Member State to another Member State for sale:
 - (a) at a price lower than the comparable price charged for similar goods in

- the Member States where such goods originate (due allowance being made for the differences in the conditions of sale or in taxation or for any other factors affecting the comparability of prices); and
- (b) under circumstances likely to prejudice the production of similar goods in that Member State.

3. In the event of alleged dumping the importing Member State shall appeal to Council to resolve the matter.
4. Council shall consider the issue and take appropriate measures to determine the causes of the dumping.

ARTICLE 43 : MOST FAVOURED NATION TREATMENT

1. Member States shall accord to one another in relation to trade between them the most favoured nation treatment. In no case shall tariff concessions granted to a third country by a Member State be more favourable than those applicable under this Treaty.
2. Any agreement between a Member State and a third country under which tariff concessions are granted, shall not derogate from the obligations of that Member State under this Treaty.
3. Copies of such agreements referred to in paragraph 2 of this Article shall be transmitted by the Member States which are parties to them, to the Executive Secretariat of the Community.

ARTICLE 44 : INTERNAL LEGISLATION

Member States undertake not to enact legislation and/or make regulations which directly or indirectly discriminate against the same or like products of another Member State.

ARTICLE 45 : RE-EXPORTATION OF GOODS AND TRANSIT FACILITIES

1. Where Customs duty has been charged and collected on any goods imported from third country into a Member State the re-exportation of such goods into another Member State shall be subject to the provisions of the Protocol relating to the re-exportation of goods within the Community.
2. Each Member State, in accordance with international regulations and the

ECOWAS Convention relating to Inter-State Road Transit of Goods, shall grant full and unrestricted freedom of transit through its territory for goods proceeding to or from a third country indirectly through that territory to or from other Member States; and such transit shall not be subject to any discrimination, quantitative restrictions, duties or other charges.

3. Notwithstanding paragraph 2 of this Article :
 - (a) goods in transit shall be subject to the Customs law; and
 - (b) goods in transit shall be liable to the charges usually made for carriage and for any services which may be rendered, provided such charges are not discriminatory and are in conformity with international transit regulations.
4. Where goods are imported from a third country into one Member State, each of the other Member States shall be free to regulate the transfer to it of such goods whether by a system of licensing and controlling importers or by other means.
5. The provisions of paragraph 4 of this Article shall apply to goods which, under the Provisions of Article 38 of this Treaty, fail to be accepted as originating in a Member State.

ARTICLE 46 : CUSTOMS CO-OPERATION AND ADMINISTRATION

Member States shall in accordance with the advice of the Trade, Customs Taxation, Statistics, Money and Payments Commission and the provisions of the Convention for Mutual Administrative Assistance in Customs Matters, take appropriate measures to harmonise and standardise their Customs regulations and procedures to ensure the effective application of the provisions of this Chapter and to facilitate the movement of goods and services across their frontiers.

ARTICLE 47 : DRAWBACK

1. The procedure to determine the eligibility for Community tariff treatment of goods in relation to which drawback is claimed or made use of in connection with their exportation from the Member States in the territory of which the goods have undergone the last process of production, shall be the subject of an additional Protocol.
2. for the purposes of this Article:
 - (a) "Drawback" means any arrangement, including temporary duty-free admission, for the refund of all or part of the duties applicable to imported

raw materials, provided that the arrangement, expressly or in effect, allows such refund or remission if goods are exported but not if they are retained for home use;

- (b) "Remission" includes exemption from duties for goods imported into free ports, free zones or other places which have similar Customs privileges; and
- (c) "Duties" means Customs duties and any other charge, with equivalent effect imposed on imported goods, except the non-protective element in such duties or charges.

ARTICLE 48 : COMPENSATION FOR LOSS OF REVENUE

1. The Council shall, on the report of the Executive Secretary and the recommendation of the Trade, Customs, Taxation, Statistics, Money and Payments Commission, determine the compensation to be paid to a Member State which has suffered loss of import duties as a result of the application of this Chapter.
2. The Council shall, in addition to compensation to be paid to Member States which suffer loss of revenue as a result of the application of this Chapter, recommend measures for promoting productive and export capacities of these countries so as to enable them to take full advantage of the benefits of trade liberalisation.
3. The method of assessment of the loss of revenue and compensation shall be as stipulated in the Protocol on the Assessment of Loss of Revenue.

ARTICLE 49 : EXCEPTIONS AND SAFEGUARD CLAUSES

1. In the event of serious disturbances occurring in the economy of a Member State following the application of the provisions of this Chapter, the Member State concerned shall, after informing the Executive Secretary and the other Member States, take the necessary safeguard measures pending the approval of the Council.
2. These measures shall remain in force for a maximum period of one year. They may not be extended beyond that period except with the approval of the Council.
3. The Council shall examine the method of application of these measures while they remain in force.

II. PROTOCOLS AND REGULATIONS

PROTOCOL A/P1/1/03 RELATING TO THE DEFINITION OF THE CONCEPT OF PRODUCTS ORIGINATING FROM MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES

THE HIGH CONTRACTING PARTIES

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

MINDFUL of paragraph 3, Article 38 of the Treaty of the Economic Community of West African States relating to possible amendments to the definition of the concept of products originating from Member States;

RECOGNISING the pressing need to harmonise the integration programmes of the Economic Community of West African States with those of the West African Economic and Monetary Union, with a view to creating a single economic zone in West Africa;

DESIROUS of ensuring that the definition of the concept of products originating from Member States is in conformity with the new regulations of the World Trade Organisation, and of amending the protocol relating thereto accordingly;

HAVE AGREED AS FOLLOWS:

Article 1: Definitions

In this Protocol,

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

"Community" means the Economic Community of West African States whose establishment is reaffirmed in Article 2 of the Treaty;

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

"Authority" means the Authority of Heads of State and Government of the Community, established by Article 7 of the Treaty;

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

"Executive Secretariat" means the Executive Secretariat established by Article 17 of the Treaty;

"Commission" means the Trade, Customs, Taxation, Statistics, Money and Payments Commission established by Article 22 of the Treaty;

"Manufacture" means any form of processing or transformation, including assembly or any other special operation;

"Material" means any ingredient, raw material, component or part used in the manufacture of goods;

"Product" means a finished product, even if the product is to be used thereafter in the manufacture of another product;

"Goods" means materials and products;

"Import Duties" means all Customs duties and taxes of equivalent effect levied on goods upon importation;

"Customs value" means the value of an article determined in conformity with the 1994 agreement relating to the implementation of Article VII of the General Agreement on Tariffs and Trade (Agreement on the WTO Customs value);

"Value of materials" means the Customs value at the time of importation of non-originating materials to be used in a process of production or, where such value is not known or cannot be determined, the earliest ascertainable price paid for them in the Member State where they are used in a process of production;

"Value-added" means the difference, expressed as a percentage, between the ex-factory price of the finished product before tax, and the CIF value of raw materials consumables and packaging of non-ECOWAS origin, used in the manufacture of the final product in the form under which it is released into circulation.

"Input" means any material, product used in the manufacturing process;

"Chapters" means the chapters used in the nomenclature of the harmonised system of designation and codification of goods, referred to in this protocol as the "Harmonised System" or "HS";

"Sub-headings" means the sub-headings (4 figures) used in the nomenclature of the harmonised system of designation and codification of goods, referred to in this protocol as the "Harmonised System" or "HS";

"Classified" means the classification of a product or a material under a particular sub-heading;

"Consignment" means all the products forwarded at the same time by an exporter to a consignee, or transported under the cover of a single document from an exporter to a consignee, or, in the absence of such a document, under the cover of a single invoice.

Article 2 : Rules of Origin of Community Goods

1. For the purpose of the provisions of Chapter VIII of the Treaty relating to trade liberalisation, goods shall be considered as originating from Member States if:
 - a) they have been wholly produced in Member States, in accordance with the provisions of Article 3 of this protocol;
 - b) they have been produced in Member States but contain raw materials which were not wholly obtained from Member States, provided that such materials have undergone operations and processes that confer Community origin, as defined in Article 4 of this protocol.
2. Originating products consisting of materials wholly produced or sufficiently transformed in one or several Member States shall be considered as products originating from the Member State in which the last processing or transformation took place, inasmuch as the processing or transformation carried out there exceeds the processing and transformation defined in Article 5 of this protocol.

Article 3 : Goods wholly produced in Member States

1. The following products shall be regarded as wholly produced in the Member States:
 - a) live animals born and raised within the Member States;
 - b) mineral products extracted from the ground, sub-soil or sea bed of Member States;
 - c) vegetable products harvested within the Member States;

- d) products obtained from animals living or raised in Member States;
 - e) products obtained by hunting or fishing within the Member States;
 - f) products obtained from the sea, rivers and lakes within the Member States by vessels belonging to the Member States;
 - g) products manufactured aboard ship factories belonging to Member States, exclusively from the products referred to in paragraph (f) of this Article;
 - h) used articles fit only for the recovery of raw materials, provided that such articles have been collected from users within the Member States;
 - i) scrap and waste resulting from manufacturing operations within Member States;
 - j) goods produced from the materials listed in paragraphs (b) to (i) of this article, used alone or mixed with other materials, provided that they represent at least 60% of the total quantity of raw materials used;
 - k) electric energy produced in the Member States.
2. The terms "vessels" and "factory ships" used in paragraph 1 (f) and (g) shall apply only to vessels and factory ships:
- which are registered in a Member State;
 - which sail under the flag of a Member State;
 - which carry a complement, inclusive of the Master thereof, of which not less than 50% are nationals of Member States.

Article 4 : Operations and processes conferring origin

For the purpose of this protocol, the following operations and processes shall be considered as sufficient to support a claim of origin from a Member State:

Where

- 1) goods are not wholly produced in Member States and where their production requires the exclusive use of materials which are to be classified under a different tariff sub-heading from that of the product;

The above rule shall be accompanied by a list of exemptions mentioning the cases where the change in the sub-heading is not a determining factor, or imposing additional conditions. The list shall be established in by a Regulation of the Council of Ministers.

Or

- 2) goods are not wholly produced in Member States and where their production requires the use of materials which have received a value-added of at least 30% of the ex-factory price of the finished goods.

Article 5: The concept of originating industrial products

Originating industrial goods shall be those referred to in articles 2 and 3 (j) of this protocol, with the exception of hand-made articles or articles produced with or without the use of tools, instruments or implements directly operated by the craftsman.

Article 6 : Operations and processes not conferring origin

For the purpose of this protocol, the following operations and processes shall be considered as insufficient to support a claim that goods originate from a Member State:

- a) operations to ensure the preservation of merchandise in good condition during transportation and storage such as ventilation, spreading out, drying, freezing, placing in brine, sulphur dioxide or other aqueous solutions, removal of damaged parts and similar operations;
- b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching, including the making up of sets of goods, washing, painting and cutting up;
- c)
 - (i) changes of packaging and breaking up or assembly of consignments;
 - (ii) simple bottling, placing in flasks, bags, cases, boxes, fixing on cards or boards and all other simple packing operations;
- d) marking or labelling in order to distinguish products or their packages;
- e) simple mixing of products, even of different types, where one or several of the components do not satisfy the Community origin criteria set out in this protocol;
- f) simple assembly of parts of a product to constitute a complete product;
- g) a combination of two or more operations specified in sub-paragraphs (a) to (f) of this Article;
- h) slaughter of animals;
- i) salting, placing in brine, drying or smoking of meat, fish, and shellfish;

- j) freezing of meat, offal, fish, shellfish, fruits, vegetables or garden plants;
- k) preparation and conservation of meat, offal, blood, fish, and shellfish from products listed in Chapters 2 and 3 of the nomenclature of the harmonised system;
- l) cutting and processing of leaves and foliage of all types.

Article 7 : Goods produced in free zones or under special economic regimes

Goods transformed within the framework of economic or suspensive Customs regimes or certain special regimes involving the suspension, or partial or total exemption from Customs duties on inputs, shall in no case be considered as originating products.

Article 8 : Unit of qualification

1. For the purpose of this protocol, the unit of qualification shall be the product used as the base unit in order to determine classification under the nomenclature of the harmonised system.

Consequently:

- where a group, set or assembly of products is to be classified under a single heading, such group, set or assembly shall be treated as one product;
 - where a consignment is composed of a number of identical products classified under the same heading in the harmonised system, each product in the consignment shall be considered separately;
2. Where, in application of the General Rule N° 5 of the harmonised system, packaging is considered as forming a whole with the goods, the packaging shall be considered as forming a whole with the goods when determining origin.

Article 9 : Accessories, spare parts and tools

Accessories, spare parts and tools which are imported with a material, machine, appliance or vehicle, and whose price is included in that of the product or for which no separate charge is made, shall be considered as forming a whole with the material, machine, appliance or vehicle under consideration.

Article 10 : Proof of origin

Proof of the Community origin of goods shall be supported by a certificate of origin stating the conditions set out in this protocol.

However, a certificate of origin shall not be required for agricultural and livestock products, as well as hand-made articles or articles produced with or without the use of tools, instruments or implements directly operated by the craftsman.

The certificate of origin shall be issued by the competent authority designated for that purpose by the Member State of origin and countersigned by the Customs Department of that Member State.

Article 11 : Identification of originating industrial products

Originating industrial products shall, where it is technically possible, carry an identification mark on them or on their packaging.

Article 12 : Cooperation in administrative procedure

In order to ensure the proper and uniform implementation of this protocol, Member States shall, through the intermediary of their respective administrations and services, give mutual aid and assistance in the authentication of certificates of origin.

Article 13 : Settlement of disputes

1. In the event that the origin of a product is contested, the Member State contesting the Community origin of the product shall, on its own initiative or that of any other party concerned, bring the issue to the attention of the competent authority in the issuing country.
2. The exporting Member State shall, within a period of forty-five (45) working days, furnish all necessary information on the conditions under which the contested certificate was issued.
3. Products whose origin is in dispute shall not be denied the advantages granted to originating products, provided that the importer deposits an amount as guarantee for the duties and taxes payable in the importing Member State.

Article 14

Disputes which remain unresolved by the Member States concerned within the time-limit prescribed in article 13 above, shall be brought before the Commission by any of the parties concerned through the intermediary of the Executive Secretariat.

Article 15

The Commission shall determine the merits and demerits of the case at its next session, and transfer the matter to the Council of Ministers which shall take a decision thereon and inform the parties concerned accordingly.

Article 16 : Amendment and Revision

1. Any Member State may submit proposals for the amendment or revision of this protocol.
2. Any such proposals shall be submitted to the Executive Secretariat, which shall send notice thereof to the Member States not later than thirty (30) days after their receipt. Amendments or revisions shall not be considered by the Authority unless Member States have received one month's notice thereof.
3. Amendments or revisions shall be adopted by the Authority.

Article 17 : Entry into force

1. This protocol shall enter into force provisionally upon signature by the Heads of State and Government. Accordingly, signatory Member States and the Executive Secretariat hereby undertake to commence implementation of all provisions of the protocol upon signature.
2. This protocol shall enter fully into force upon ratification by at least nine (9) signatory States, and in accordance with the constitutional procedures of each Member State.
3. This protocol and all instruments of ratification shall be deposited with the Executive Secretariat, which shall transmit certified true copies thereof to all Member States and notify them of the dates of deposit of instruments of ratification by the Member States. It shall also be registered by the Executive Secretariat with the African Union (AU), the United Nations Organisation (UNO), and such other organisation as the Council may determine.

Article 18

This protocol repeals and replaces all existing provisions which are incompatible with the above provisions.

IN FAITH WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) HAVE SIGNED THIS PROTOCOL IN SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES, ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC

DONE AT DAKAR, THIS 31ST DAY OF JANUARY 2003

PROTOCOL A/P2 /1 /03
RELATING TO THE APPLICATION OF COMPENSATION
PROCEDURES FOR LOSS OF REVENUE INCURRED BY
ECOWAS MEMBER STATES AS A RESULT OF THE
TRADE LIBERALISATION SCHEME

THE HIGH CONTRACTING PARTIES,

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

MINDFUL of article 48 of the Treaty relating to compensation for loss of revenue incurred by a Member State as a result of trade liberalisation;

MINDFUL of the protocol relating to the evaluation of loss of revenue registered by the ECOWAS Member States;

MINDFUL of Protocol A/P1/7/96 relating to the conditions for the application of the Community levy;

MINDFUL of Decision A/DEC.6/7/92 amending Decision 1/5/83 relating to the adoption and implementation of a single ECOWAS trade liberalisation scheme;

MINDFUL of Decision A/DEC.19/5/80, dated 28 May, relating to the application of compensation procedures for loss of revenue incurred by the Member States;

CONSIDERING that one of the major obstacles to the implementation of the ECOWAS trade liberalisation scheme stems from the inadequacies observed in the system adopted for the compensation of the loss of Customs revenue;

CONSCIOUS that harmonisation of the trade liberalisation schemes operating in the sub-region is a necessary condition for the creation of a common market;

DESIROUS of enacting a protocol introducing a judicious and effective compensation system for loss of revenue;

Hereby agree as follows:

I. DEFINITIONS

Article 1

For the purposes of this protocol,

“Treaty” means the revised Treaty of the Economic Community of West African States signed in Cotonou, on 24 July 1993;

“Community” means the Economic Community of West African States whose creation was reaffirmed by article 2 of the Treaty;

“Member State” means a Member State of ECOWAS;

“Authority” means the ECOWAS Authority of Heads of State and Government established by article 7 of the Treaty;

“Council” means the ECOWAS Council of Ministers established by article 10 of the Treaty;

“Executive Secretariat” means the ECOWAS Executive Secretariat and Executive Secretary provided for and Executive Secretary appointed under articles 17 and 18 of the Treaty respectively.

Article 2

Under the terms of article 48 of the Treaty, compensation shall be paid to Member States incurring loss of Customs revenue from imports as a result of the implementation of the ECOWAS trade liberalisation scheme.

II. EVALUATION OF REVENUE LOST

Article 3

Loss of customs revenue incurred by a Member State is defined as total shortfall in receipts recorded by the Member State as a result of its importation of approved originating industrial products.

Article 4

Total loss of Customs revenue incurred by an ECOWAS Member State importing industrial products originating from another ECOWAS Member State, as a result of the application of the preferential intra-Community regime shall be assessed according to the following formula:

$$\text{CRL} = (\text{Cde} + \text{Str}), \text{Vcif}$$

Where

$$\text{CRL} = \text{Customs revenue lost}$$

$$\text{Cde} = \text{Customs duty and taxes of equivalent effect}$$

$$\text{Str} = \text{statistical taxation rate}$$

$$\text{Vcif} = \text{CIF value of product.}$$

Article 5

Compensation shall only be granted in respect of loss of Customs revenue from import duties and taxes calculated on the basis of the formula stipulated in article 4 above.

Loss of revenue from internal taxes on locally produced goods and imports from within the Community shall not be eligible for compensation.

III. DURATION

Article 6

The duration of the compensation mechanism is fixed at four (4) years, with effect from 1 January 2002.

Amounts payable as compensation shall be calculated on a decreasing scale in the following manner:

- 100% of loss incurred in 2002
- 80% of loss incurred in 2003
- 60% of loss incurred in 2004
- 30% of loss incurred in 2005
- 0% of loss incurred, with effect from 1 January 2006

Article 7

Member States shall transmit to the Executive Secretariat, within a time-limit not exceeding six months from the date of reference, a list of Customs declarations processed under the ECOWAS trade liberalisation scheme, accompanied by the originals of the certificates of origin of each product, and copies of the declarations of release for consumption.

IV. COMPENSATION PROCEDURE

Article 8

The Executive Secretariat shall be given a time-limit of 90 days from the date of receipt of applications for compensation, to screen the applications, determine the amounts payable as compensation, and effect payment.

Article 9

Payment of compensation shall be effected by the Executive Secretary, who shall render account thereof to the Council of Ministers.

V. FINANCING

Article 10

Compensation for loss of revenue incurred by Member States shall be financed from the proceeds of the Community levy.

VI. INTERIM ARRANGEMENTS

Article 11

Pending the entry into full force of the Community levy, the Executive Secretariat shall effect payment of the compensation, in consultation with the Member States, in accordance with the current rules.

VII. FINAL PROVISIONS

Article 12: Amendment and Revision

Any Member State may submit proposals for the amendment or revision of this protocol.

Any such proposals shall be submitted to the Executive Secretariat which shall notify the Member States, not later than thirty (30) days after receipt of the proposals. Amendments or revisions shall not be considered by the Authority unless Member States have been given at least one month's notice thereof.

Amendments or revisions shall be adopted by the Authority.

Article 13: Entry into force

1. This Protocol shall enter into force provisionally upon signature by the Heads of State and Government. Accordingly, signatory Member States and the Executive Secretariat hereby undertake to start implementation of all provisions of the protocol upon signature.
2. This protocol shall enter into force upon ratification by at least nine (9) signatory States in accordance with the constitutional procedures of each Member State.
3. This protocol and all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies thereof to all Member States and notify them of the dates of deposit of instruments of ratification by the Member States. It shall also be registered by the Executive Secretariat with the African Union (AU), the United Nations Organisation (UNO), and such other organisation as the Council may determine.

Article 14

The Protocol relating to the assessment of loss of revenue and Decision A/DEC.19/5/80, dated 28 May 1980, relating to the application of compensation procedure for loss of revenue and all the provisions therein shall be abrogated upon the entry into force of this protocol.

IN FAITH WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) HAVE SIGNED THIS PROTOCOL IN SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES, ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC

DONE AT DAKAR, THIS 31ST DAY OF JANUARY 2003

**SUPPLEMENTARY PROTOCOL A/SP1/12/03
AMENDING ARTICLE 6 OF PROTOCOL A/P2/1/03
RELATING TO THE APPLICATION OF COMPENSATION
PROCEDURE FOR LOSS OF REVENUE INCURRED BY
ECOWAS MEMBER STATES AS A RESULT OF
TRADE LIBERALISATION**

THE HIGH CONTRACTING PARTIES,

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

MINDFUL of Article 48 of the revised Treaty on compensation for loss of revenue incurred by Member States as a result of trade liberalisation;

MINDFUL of Protocol A/P2/1/03 dated 31 January 2003 on the application of compensation procedures for loss of revenue;

CONSIDERING that one of the major obstacles to the implementation of the ECOWAS trade liberalisation scheme stems from the inadequacies observed in the system adopted for the compensation of loss of Customs revenue;

CONSIDERING that the date fixed in Protocol A/P2/1/03 for the take-off of the decreasing compensation scale has proved unrealistic;

DETERMINED to take account of the importance attached by Member States to the payment of compensation for losses of revenue, when fixing a date for the take-off referred to above, in order to ensure effective implementation of the trade liberalisation scheme;

DESIRING to set a new date for the take-off of the decreasing compensation scale and, to this end, to amend Protocol A/P2/1/03;

On the RECOMMENDATION of the seventh extraordinary session of the Council of Ministers held in Cotonou on 1 and 2 September, 2003;

AGREE AS FOLLOWS:

Article 1

Article 6 of Protocol A/P2/1/03 relating to the application of compensation procedure

for loss of revenue incurred by Member States as a result of trade liberalisation is hereby amended and shall henceforth read as follows:

New Article 6

1. The duration of the compensation mechanism is fixed at four (4) years, with effect from 1 January 2004.
2. Amounts payable as compensation shall be calculated on a decreasing scale in the following manner:
 - 100% of loss incurred in 2004
 - 80% of loss incurred in 2005
 - 60% of loss incurred in 2006
 - 30% of loss incurred in 2007
 - 0% of loss incurred with effect from 1 January 2008

Article 2

1. This Supplementary Protocol shall enter into force provisionally upon signature by the Heads of State and Government. Accordingly, signatory Member States and the Executive Secretariat hereby undertake to commence implementation of all provisions of the protocol upon signature.
2. This Supplementary Protocol shall enter into force upon ratification by at least nine (9) signatory States, in accordance with the constitutional procedures in each Member State.
3. This Supplementary Protocol and all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies to all the Member States and notify them of the dates of deposit of instruments by the Member States. The Executive Secretariat shall also register it with the African Union, the United Nations Organisation, and such other organisation as the Council of Ministers may determine.

IN FAITH WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES HAVE SIGNED THIS SUPPLEMENTARY PROTOCOL IN THREE ORIGINALS IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES, ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC.

DONE AT ACCRA THIS 19TH DAY OF DECEMBER 2003

REGULATION C/REG.3/4/02
ESTABLISHING PROCEDURE FOR THE APPROVAL OF
ORIGINATING PRODUCTS TO BENEFIT UNDER THE
ECOWAS TRADE LIBERALISATION SCHEME

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;

RECOGNISING the need to facilitate the application and effectiveness of the ECOWAS trade liberalisation scheme;

BEARING IN MIND the directives of the Authority of Heads of State and Government issued at Lome on 10th December 1999 on the need for the coordination of the Integration Programmes of ECOWAS and the West African Economic and Monetary Union (UEMOA);

ALSO BEARING IN MIND the conclusions of the ECOWAS/UEMOA Ministerial Meetings held in Bamako on 28th and 29th January 2000 on the need for the harmonisation of the Trade Liberalisation Schemes of ECOWAS and UEMOA;

RECALLING its directives issued to the Executive Secretariat of ECOWAS on 12th December 2000, to elaborate and submit legal texts for the harmonisation of the Trade Liberalisation schemes of ECOWAS and UEMOA;

On the RECOMMENDATION of the Extraordinary meeting of the Trade, Customs, Taxation, Statistics, Money and Payments Commission held at Abuja, from 5th to 6th April, 2002;

E N A C T S

SECTION 1: APPROVAL PROCEDURE FOR ORIGINATING PRODUCTS

Article 1: Approval

Approval of originating industrial products to benefit under the intra-ECOWAS preferential trade regime shall be granted by an authority designated by each Member State on the recommendation of a National Approvals Committee (NAC) established for the purpose.

Article 2: Composition of the National Approvals Committee

The members of the National Approvals Committee shall be the representatives of the following Ministries, agencies and organizations:

- The Ministry of Trade
- The Ministry of Industry
- The Ministry of Finance (Department of Customs)
- The ECOWAS National Unit (or Ministry of Integration)
- The National Chamber of Commerce and Industry
- All such structures or institutions as may be deemed appropriate.

The Committee shall be presided over by the representative of the national authority designated to grant such approvals.

Article 3: Functions of the National Approvals Committee

The National Approvals Committee shall be responsible for the screening of applications, and the making of recommendations thereon to the designated authority of the Member State concerned.

Article 4: Applications to the National Approvals Committee

Industrial enterprises desiring to benefit under the trade liberalisation scheme shall complete an application form, the prototype of which is attached to this regulation, and submit it to the Chairperson of the National Approvals Committee.

Article 5: Screening of Applications for Approval

The Chairperson of the Committee shall convene meetings, in accordance with a preset timetable, for the purpose of screening applications received.

Enterprises fulfilling the conditions for approval shall be recommended for approval to the appropriate authority.

All applications must be processed and approval granted or denied within a period of three months.

Article 6: Notice of Approval

Member States shall transmit the list of approved products and the dossiers relating thereto, to the Executive Secretariat.

The Executive Secretariat shall transmit the list of approved products to the Member States.

Article 7: Enterprise Registration Number

Enterprises whose products have received approval shall be issued a seven-digit registration number.

The first three digits shall represent the country geographical code as defined by the United Nations; the four subsequent digits are the sequence number, representing the position of the enterprise within the Member State according to numerical order.

Article 8: Product Approval Number

Approved industrial enterprises and products shall be issued an eleven-digit approval number as indicated in the table hereunder:

PRODUCT APPROVAL NUMBER (11 digits)			
Enterprise Registration Number (7 digits)		Product Sequence Number	Year
Country code (3 digits)	Sequence Number of Enterprise (4 digits)		

SECTION 2: PROVISIONS COVERING THE TRANSITION PERIOD

Article 9

Industrial products whose ECOWAS origin is determined by the criterion of value-added, in accordance with the provisions of the protocol defining the concept of originating products, shall remain eligible for approval for a 3-year transition period under the conditions stated hereunder.

Article 10

Applications for approval to benefit from the preferential tariffs granted under the ECOWAS trade liberalisation scheme must be submitted on the form, the prototype of which is attached to this regulation.

Article 11

Applications for approval must be duly completed and submitted to the appropriate national authority.

Article 12

Applications for approval shall be screened, at the national level, within the time-limit stipulated in article 5 above, by a National Approvals Committee which shall authenticate the ECOWAS origin of the products submitted for approval.

Article 13

Successful applications shall be transmitted to the ECOWAS Executive Secretariat by the ECOWAS National Unit (or Ministry of Integration).

Article 14

The applications shall be scrutinized by the Trade, Customs, Taxation, Statistics, Money and Payments Commission, which shall recommend their approval by the Chairman of the Council of Ministers, who shall approve and sign on behalf of Council.

The Commission shall meet at least twice yearly to scrutinize applications for approval.

SECTION 3: FINAL PROVISIONS

Article 15

The prototype application form attached hereto shall replace all former application forms.

Article 16

The approval procedure for products of ECOWAS origin established by Decision C/DEC/3/6/88, dated 21/06/88, is hereby abrogated.

Article 17

This regulation shall be published by the Executive Secretariat in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of the Council of Ministers.

It shall also be published within the same time-frame by each Member State in its National Gazette.

DONE AT ABUJA, THIS 23RD DAY OF APRIL 2002

**DR. KADI SESAY
CHAIRMAN
FOR COUNCIL**

ECONOMIC COMMUNITY OF WEST AFRICAN STATES
COMMUNAUTE ECONOMIQUE DES ETATS DE L'AFRIQUE DE L'OUEST

**APPLICATION FORM FOR ADMISSION TO THE
ECOWAS TRADE LIBERALISATION SCHEME**

+++++++

***To be completed by the industrial enterprise
and submitted by the ECOWAS Member State***

I. CONTENT OF APPLICATION FORM

1) IDENTITY OF ENTERPRISE

- 1.1. Business Name; Registration N°
- 1.2. Address of Head Office (P.O. Box; Telephone N°, Fax N°)
- 1.3. Sector and Branch of Activity
- 1.4. Legal Status
- 1.5. Preferential treatment granted by Member State of domiciliation
- 1.6. Number and location of factory/factories

2) MANUFACTURED PRODUCTS SUBMITTED FOR APPROVAL

- 2.1. Description of product under ECOWAS Customs Nomenclature
- 2.2. Type of product
- 2.3. Brand name and manufacturing label

3) MANUFACTURING PROCESS

- 3.1. Description of manufacturing process
- 3.2. Raw materials employed
- 3.3. Consumables utilised
- 3.4. Type of packaging utilised

4) DETERMINATION OF EX-FACTORY PRICE AND VALUE-ADDED

- 4.1. Applicants must complete form, indicating components determining ex-factory price and value-added for each product or group of products

5) IDENTITY OF ENTERPRISE

- 5.1 Business Name and Registration No.....
Headquarters Address.....
P.O. Box.....
Telephone No.....
Fax No.....
E-mail address.....
Website.....
- 5.2 Sector and Branch of Activity.....
- 5.3 Legal Status (1).....
- 5.4 Preferential Treatment granted by Member State of Domiciliation (2)
.....
- 5.5 Approval number issued under the liberalisation scheme (3)
.....
- 5.6 Number and location of establishments:

- (1) *attach copy of Statutes*
- (2) *attach copy of text granting such treatment*
- (3) *for already approved enterprises*

II. MANUFACTURED PRODUCT SUBMITTED FOR APPROVAL

- 2.1 Describe product using ECOWAS Tariff and Statistical Nomenclature and indicating trade description (*attach any official documents attesting to tariff classification, and, where possible, include a sample of product*).
- 2.2 State tariff item or sub-item classification of manufactured product under ECOWAS Nomenclature
- 2.3 State brand name or manufacturing label used for marketing purposes (*include any useful indications for the identification of the manufactured product*)

III. MANUFACTURING PROCESS

- 3.1. Description of Manufacturing process
- 3.2. Raw materials utilised

1) (*Use model table for each product submitted for approval*)

Product manufactured--	Reference Year.....		
Description of raw materials (1)	ECOWAS Customs Nomenclature No	Quantity Utilised	Value on entry into factory
A. Raw Materials of Foreign Origin			
B. Raw Materials of ECOWAS Origin			

(1) *state principal raw materials utilised*

- 3.3 Consumables Utilised in the Manufacture of Products Submitted for Approval

2) (*Use model table for each product submitted for approval*)

Product Manufactured--	Reference Year.....		
Description of Consumables (1)	ECOWAS Customs Nomenclature No	Quantity Utilised	Value on entry into factory
A. Consumables of Foreign Origin			
B. Consumables of ECOWAS Origin			

(1) *state principal consumables utilised*

3.4 Packaging Utilised for Marketing Purposes

3) (Use model table for each product submitted for approval)

Product Manufactured:	Reference Year.....		
Description of packaging	ECOWAS Nomenclature No	Quantity Utilised	Value on Entry into Factory
A. Packaging of Foreign Origin			
B. Packaging of ECOWAS Origin			

IV. CALCULATION OF EX-FACTORY COST PRICE AND VALUE ADDED

Description of product : NTS :

Maximum production capacity : Quantity produced :

4) (Use model table for each product submitted for approval)

Components determining ex-factory cost price Reference Year (1)	Value per unit produced (2) (3)	%
1 ^o) Raw materials utilised: - of ECOWAS origin - of foreign origin : . CIF value (4) . Transport, transit to factory (5) . Import duties and taxes		
2 ^o) Consumables utilised - of ECOWAS origin - of foreign origin : . CIF value (4) . Transport, transit to factory (5) . Import duties and taxes		
3 ^o) Packaging utilised (external) - of ECOWAS origin - of foreign origin : . CIF value (4) . Transport, transit to factory (5) . Import duties and taxes.		

Components determining ex-factory cost price Reference Year (1)	Value per unit produced (2) (3)	%
4 ^o) Other expenditure borne by company - Salaries and wages (6) - Duties and taxes (borne by company) - Works, supplies and services provided from external sources (7) - Transport and travel - Miscellaneous management costs - Financial charges (8)- Amortisements (buildings & equipment) (9)		
EX-FACTORY COST PRICE		
VALUE ADDED %		

- (1) *state reference year*
- (2) *state whether in thousands or millions in local currency*
- (3) *state unit of measure (kilo, metre, m3, etc)*
- (4) *CIF value of raw materials and/or consumables*
- (5) *transport-transit to border of importing State + transport-transit to
factory (for land-locked countries)*
- (6) *salaries and wages may not exceed 20% of cost price*
- (7) *works, supplies and ext. services may not exceed 10% of cost price,
and must be directly tied to production*
- (8) *financial charges may not exceed 3% of cost price*
- (9) *amortisements must be recorded on a separate form, giving details
of investments made and rate and mode of amortisement*

**REGULATION C/REG.4/4/02
ADOPTING A CERTIFICATE OF ORIGIN FOR
PRODUCTS OF ECOWAS ORIGIN**

THE COUNCIL OF MINISTERS,

MINDFUL of articles 10, 11 and 12 of the Treaty establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Decision A/DEC.6/7/92 relating to the adoption and implementation of a single ECOWAS trade liberalisation scheme;

BEARING IN MIND the directives of the Authority of Heads of State and Government issued at Lome on 10th December 1999 on the need for the coordination of the integration programmes of ECOWAS and the West African Economic and Monetary Union (UEMOA);

ALSO BEARING IN MIND the conclusions of the ECOWAS/UEMOA Ministerial Meetings held in Bamako on 28th and 29th January 2000 on the need for the harmonisation of the Trade Liberalisation Schemes of ECOWAS and UEMOA;

RECALLING its directives issued to the Executive Secretariat of ECOWAS on 12th December 2000, to elaborate and submit legal texts for the harmonisation of the Trade Liberalisation Schemes of ECOWAS and UEMOA;

CONVINCED of the need to adopt a harmonised document in order to facilitate the movement of products within the ECOWAS Community;

On the RECOMMENDATION of the Extraordinary meeting of the Trade, Customs, Taxation, Statistics, Money and Payments Commission held at Abuja, from 5th to 6th April 2002;

E N A C T S

Article 1

The ECOWAS origin of products manufactured within the ECOWAS Community is attested by a certificate of origin, a specimen of which is attached to this regulation.

However, agricultural and livestock products as well as hand-made articles or articles

manufactured with or without the use of tools, instruments, or implements directly operated by the craftsman are exempted from this requirement.

Article 2

The certificate of origin shall be of A4/ISO size (210x297mm) and green in colour. Specimen copies shall be printed by the Executive Secretariat and sent to the Member States.

Article 3

The certificate of origin shall be issued by the national authority designated by the Member State for the purpose.

Officials authorised to issue or endorse the certificate of origin are required to append their signature, name and function legibly to the document.

Article 4

The previous certificate of origin referred to in article 1, Decision C/DEC.3/5/80, relating to proof and verification of the Community origin of goods, shall become invalid one year from the date of signature of this regulation.

The old format of the certificate may continue to circulate together with the new, but shall be withdrawn progressively within the time-frame prescribed above.

Article 5

This regulation shall be published by the Executive Secretariat in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published in the Official Gazette of each Member State within the same time-frame.

DONE AT ABUJA, THIS 23RD DAY OF APRIL 2002

**DR. KADI SESAY
CHAIRMAN
FOR COUNCIL**

ORIGINAL

ECOWAS/UEMOA		REPUBLIC OF		
CERTIFICATE OF ORIGIN NO				
1. Producer (Name or trade name and address) Registration No		3. Criteria determining origin (1) # Goods wholly produced in the Community # Goods sufficiently processed or worked: # - according to the criterion of changing of tariff position # - according to the criterion of value added(2)		
2. Consignee (Name or trade name and address)		# ECOWAS scheme (in compliance with the provisions of Protocol A/P1/1/03, articles 2, 3 & 4) # UEMOA scheme (in compliance with the provisions of Protocol No.....CEG/UEMOA/01		
4. Quantity, nature of goods and no. of packages	5. Tariff & Statistical Nomenclature	6. Approval no . of goods	7. Gross weight or other measure	8 Invoice value
9. Declaration by exporter: I, the undersigned,.....declare that the above-mentioned particulars are correct, and that the goods satisfy the requirements for the issue of this certificate. Place and date.....Signature				
10. Certification by the appropriate authority Declared criterion of origin certified correct. Place & date.....Signature and stamp.....(3)		11. Certification by Customs, the undersigned Customs officer, declare that this certificate is authentic and accurate. Export document: Model Nodated..... Place & date.....Signature & stamp.....(3)		
12. Request for Verification To (address of issuing Customs office) Verification of authenticity and accuracy of this certificate is required. Place & date.....Signature & stamp..... (3)		13. Verification Verification establishes that this certificate (1): # has been issued by this office and that the particulars are correct; # does not satisfy the conditions of authenticity and accuracy Place & date.....Signature & stamp....(3)		

- (1) Mark a cross in the box as applicable
- (2) State percentage of value-added
- (3) Name of signatory and rank in block capitals (*otherwise, indicate registration number*)

INSTRUCTIONS

1. Use block capitals except for names and signatures.

Do not write in margins or in between lines.

Any unused space must be struck through in such a manner as to make any later additions impossible.

2. The certificate must contain no erasures or words written over one another. Alterations should be made by crossing out the incorrect particulars and adding any corrections where necessary. All such alterations must be initialled by the person filling the certificate and endorsed by the Customs authorities of the issuing Member State.
3. This certificate is issued in a single original. All copies must bear the word "copy". In the event of loss of the original, a duplicate may be issued, bearing the word "Duplicate".
4. Goods must be described in accordance with commercial practice and in sufficient detail to enable their identification.
5. This certificate of origin covers one product only.
6. The period of validity of this certificate is six (6) months commencing from the date of issuance.

**REGULATION C/REG.5/4/02
RELATING TO THE ASSESSMENT OF THE
COMPONENTS MAKING UP THE EX-FACTORY PRICE
OF A FINISHED PRODUCT BEFORE TAX, AND THE
VALUE- ADDED**

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;

BEARING IN MIND the directives of the Authority of Heads of State and Government issued at Lome on 10th December 1999 on the need for the coordination of the integration programmes of ECOWAS and the West African Economic and Monetary Union (UEMOA);

ALSO BEARING IN MIND the conclusions of the ECOWAS/UEMOA Ministerial meetings held in Bamako on 28th and 29th January 2000, on the need for the harmonisation of the Trade Liberalisation Schemes of ECOWAS and UEMOA;

RECALLING its directives issued to the Executive Secretariat of ECOWAS on 12th December 2000, to elaborate and submit legal texts for the harmonisation of the Trade Liberalisation schemes of ECOWAS and UEMOA;

CONSIDERING Decision C/DEC.4/7/87 relating to the assessment of the components making up the ex-factory price of a finished product before tax, and the value-added;

On the RECOMMENDATION of the Extraordinary meeting of the Trade, Customs, Taxation, Statistics, Money and Payments Commission held in Abuja from 5th to 6th April 2002;

E N A C T S

Article 1

1. The components making up the ex-factory price of a finished product before tax are as follows:
 - i) CIF value of raw materials of Community or foreign origin employed in production;

- ii) CIF value of consumables of Community or foreign origin;
 - iii) CIF value of none recoverable packaging material of Community or foreign origin;
 - iv) wages and salaries, which may not exceed 20% of cost price;
 - v) duties and taxes which are payable by the enterprise;
 - 5) works, supplies and external services, which shall not exceed 10% of cost price. Works, supplies and external services not intervening directly in the production process shall be excluded;
 - vii) transport and travel;
 - viii) financial charges, which may not exceed 3% if cost price;
 - ix) depreciation charges, which shall be recorded on a separate form detailing capital invested and rate and mode of amortisement.
2. The following shall be excluded from the determination of ex-factory price before tax:
- i) tax on profit;
 - ii) value-added tax;
 - iii) turnover tax

Article 2

Value-added is defined as the difference expressed as a percentage of the ex-factory price before tax of the finished product concerned and the CIF value of raw materials, consumables and packaging of foreign origin, utilised in obtaining the final product in the form under which it is released for consumption.

Article 3

This Regulation repeals and replaces all existing provisions which are incompatible with the above provisions.

Article 4

This Regulation shall be published by the Executive Secretariat in the Official Journal

of the Community, within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published in the Official Gazette of each Member State within the same time frame.

DONE AT ABUJA THIS 23rd DAY OF APRIL 2002

**DR KADI SESAY
CHAIRMAN
FOR COUNCIL**

