

# Treaty on the West African Economic and Monetary Union (WAEMU)

The Government of the Republic of Benin,

The Government of Burkina Faso,

The Government of the Republic of Côte d'Ivoire,

The Government of the Republic of Mali,

The Government of the Republic of the Niger,

The Government of the Republic of Senegal

The Government of the Republic of Togo,

Consistent with the objectives of the African Economic Community and the Economic Community of West African States (ECOWAS),

Aware of their mutual benefit from membership in the same monetary union and the need to strengthen the cohesion thereof,

Convinced of the need to extend the economic solidarity between them already monetary policies,

Affirming the need to promote economic and social development of Member States through the harmonisation of their laws and to harmonize their domestic markets and implementation of joint sectoral policies in key sectors of their economies,

Recognizing the interdependence of their economic policies and the need to ensure their convergence,

Determined to comply with the principle of an open, competitive market economy and promote the optimal allocation of resources;

Desiring to complement to this effect the African Economic and Monetary Union (WAEMU) by new transfers of sovereignty and convert the union in Economic and Monetary Union (WAEMU) with a new,

Affirming the need to enhance the mutual supportiveness of their production systems and reducing levels of development disparities among the Member States;

In French only.

These agreements have been communicated to the Secretariat where they may be consulted by interested members 3006 (office).

Stressing that is in line with the efforts of regional integration in Africa, and calling on other West African States that share their objectives to join efforts,

Hereby agree as follows:

## **Title Preliminary Title: Definitions**

### **Article 1.**

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

WAEMU: the West African Economic and Monetary Union, which is the subject of the present Treaty Union: the West African Economic and Monetary Union, which is the subject of the present Treaty: the UEMOA West African Monetary Union referred to in article 2 of this treaty bodies: the organs of the Union as referred to in article 16 of this Treaty Conference: the

Conference of Heads of State and Government of the African Union provided for in article 17 of the present Treaty

Council: the Council of Ministers of the Union as provided for in article 20 of this Treaty

Commission: the Commission of the African Union laid down in article 26 of this Treaty Parliamentary Committee means the committee set up by article 35 of this Treaty Parliament: the Union Parliament under article 37 of this Treaty

Court OF JUSTICE: the Court of Justice of the European Union established by article 38 of this Treaty and governed by section I of Protocol No I

Court of Auditors: the Court of Auditors of the union established by article 38 of this Treaty and governed by the Additional Protocol I autonomous specialized agencies: the Central Bank and the BOAD

BCEAO: the Central Bank of West African States referred to in article 41 of this Treaty BOAD: the West African Development Bank referred to in article 41 of this Treaty Union Treaty: the present Treaty

I Protocol No 2: the Protocol provided for in article 38 of this Treaty

Protocol No. it: the Protocol provided for in Article 101 of this Treaty

Additional note: the act referred to in article 19 of this Treaty

Regulation: the act referred to in article 43 of this Treaty decision: the act referred to in article 43 of this Treaty Directive: the act referred to in article 43 of this Treaty recommendation: the act referred to in article 43 of this Treaty opinion: the act referred to in article 43 of this Treaty

The Common Market: unified market established between Member States, referred to in articles 4 and 76 of the present Treaty

Common policies: joint economic policies provided for in articles 62 to 100 of this Treaty

Sectoral policies: sectoral policies in accordance with Article 101 of this Treaty and governed by the Protocol II

Multilateral surveillance mechanism community: the definition and monitoring of economic policies among member States, as provided for in article 63 and covered by articles 64-75 of this Treaty

Right of establishment shall mean the right referred to in article 92 of this Treaty

Member State: the State party to this Treaty as provided for in its preamble

Associate Member means any State eligible to participate in certain policies of the union in accordance with the provisions of article 104 of this Treaty

Third State: any State other than a Member State

## **Title I. PRINCIPLES AND OBJECTIVES OF THE UNION**

### **Article 2.**

In this Treaty, the High Contracting Parties shall complement the African Economic and Monetary Union (WAEMU) imposed them in order to achieve its economic and Monetary Union (WAEMU), hereinafter referred to as the Union.

### **Article 3.**

The Union shall respect for the fundamental rights enshrined in the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples Rights' of 1981.

### **Article 4.**

Without prejudice to the objectives set out in the Treaty of the UEMOA, the Union pursues under the conditions laid down in this Treaty, the following objectives:

a) Enhancing the competitiveness of financial and economic activities of Member States

Within the framework of an open and competitive market and a streamlined and harmonized legal framework;

b) Achieve convergence of economic performance and policy states

Members of the institution of a multilateral surveillance procedure;

c) Among Member States; establish a common market based on the free movement of

Persons, goods, services, capital and the right of establishment of self-employed or employed persons as well as on a common external tariff and a Common Commercial Policy;

d) Coordinate national sectoral policies, through the implementation

Joint actions and possibly of common policies in particular in the following areas: human resources planning, transport and telecommunications, environment, agriculture, industry, energy and mining;

e) Harmonize insofar as necessary for the proper functioning of the Common Market;

The laws of the Member States and more particularly taxation.

## **Article 5.**

In the exercise of powers normative specified by this Treaty and to the extent consistent with the objectives of this Agreement, the bodies of the Union shall promote the establishment of minimum requirements and regulatory frameworks that Member States must be completed as appropriate, in accordance with their respective constitutional requirements.

## **Article 6.**

The Acts adopted by the institutions of the Union for the achievement of the objectives of this Treaty and in accordance with the rules and procedures laid down by the latter, are applied in each Member State contrary notwithstanding any domestic legislation, before or after.

Annexed to the present document.

## **Article 7.**

Member States shall contribute to the achievement of the objectives of the union by adopting any general or specific measures necessary to ensure the fulfilment of their obligations under this Treaty. for this purpose, they shall abstain from any measures likely to impede the implementation of this Treaty and of acts adopted for its implementation.

## **Article 8.**

Upon the entry into force of this Treaty, the Conference of Heads of State and Government lays down general guidelines for the achievement of the objectives of the Union. it is periodically the status of the process of economic and monetary integration and shall, where appropriate, further guidance.

## **Title II. THE INSTITUTIONAL SYSTEM OF THE UNION**

### **Chapter I. THE STATUS OF THE UNION**

#### **Article 9.**

The Union shall have legal personality. each Member State it shall enjoy the most extensive legal capacity accorded to legal persons under its domestic legislation. she is represented in judicial proceedings by the Commission. including the capacity to contract, acquire movable and immovable property and property. its contractual liability and the competent national jurisdiction over any dispute relating thereto are governed by the law applicable to the contract in question.

#### **Article 11.**

The Staff Regulations of officials of the Union and the Conditions of Employment of Other Servants shall be adopted by the Council acting by a two-thirds majority (2 / 3) of its members on a proposal from the Commission. officials of the Union are generally recruited through NCRE from among nationals of the Member States.

Officials and other servants of the Union shall be bound by professional secrecy even after the termination of their functions.

### **Article 12.**

The Union shall be represented in international relations by the Commission in accordance with the guidelines that may submit to the Council.

### **Article 13.**

The Union shall establish all effective cooperation with regional or subregional organizations. It may have recourse to technical and financial assistance to any State which accepts or international organizations, in so far as such aid is compatible with the objectives of this Treaty.

The cooperation and assistance may be concluded agreements with third countries or international organisations, in accordance with the procedures laid down in article 84 of this Treaty.

### **Article 14.**

Upon the entry into force of this Treaty, the Member States shall consult within the Council in order to take all appropriate measures to eliminate duplication or incompatibilities between the right and the powers of the Union on the one hand, and the agreements concluded by one or more Member States on the other hand, particularly those of establishing international economic organizations.

### **Article 15.**

Member States shall consult each other with a view to take the necessary steps to prevent the functioning of the Union shall not be affected by the measures that one of them could be taken in the event of serious internal disturbances affecting the maintenance of law and order, in time of war or threat of serious international tension constituting war.

## **Chapter II. THE UNION'S BODIES**

### **Article 16.**

The organs of the Union are constituted by:

- the Conference of Heads of State and Government, as defined in article 5 of the WAMU Treaty
- the Council of Ministers, as defined in article 6 of the WAMU Treaty
- the Commission
- the Court of Justice
- the Court of Auditors.

These bodies shall act within the limits of the powers conferred on them by the WAMU Treaty and the present Treaty and under the conditions provided for by those treaties.

An Inter-Parliamentary Committee, advisory bodies and autonomous specialized institutions shall also contribute to the achievement of the objectives of the Union.

## **Section 1. Management Bodies**

Paragraph 1 The Conference of Heads of State and Government

### **Article 17.**

The Conference of Heads of State and Government of the policy defines union. It shall meet at least once a year.

## **Article 18.**

The Conference of Heads of State and Government of monetary union laid down in article 5 of the Treaty on the UEMOA shall carry out the functions assigned to it by this Treaty.

## **Article 19.**

The Conference of Heads of State and Government shall, as necessary, additional to the treaty of acts of the Union.

Additional acts shall be annexed to the Treaty. they shall supplement it without modification. compliance with them shall be binding on the institutions of the Union as well as to the authorities of the Member States.

Paragraph 2: the Council of Ministers

## **Article 20.**

The Council of Ministers of the Union shall ensure the implementation of the overall policy framework established by the Conference of Heads of State and Government.

It shall meet at least twice a year.

## **Article 21.**

The Council of Ministers of the monetary union referred to in article 6 of the Treaty of the UEMOA shall carry out the functions assigned to it by this Treaty.

## **Article 22.**

Whenever the present Treaty provides for the adoption of a legal act of the Council on a proposal from the Commission, the Council may not make amendments to this proposal by acting unanimously.

## **Article 23.**

By way of derogation from article 6 (2) of the Treaty of the UEMOA, in the case of decisions which does not primarily on the economic and financial policies, the Council meeting the competent ministers. the deliberations shall become final after verification by the Ministers in Charge of Economic Affairs, Finance and Planning of their compatibility with economic, financial and monetary policy of the Union.

Political and sovereignty, the Foreign Ministers will serve on the Council of Ministers of WAEMU.

## **Article 24.**

The Council may delegate to the Commission the adoption of regulations implementing acts it imposes.

Implementing such arrangements shall have the same legal force that acts to which they are taken.

## **Article 25.**

The deliberations of the Council shall be prepared by the Committee of Experts composed of representatives of the Member States. the Commission shall be present at the meetings of the Committee. the Council shall adopt by a majority of its members present advice and transmit it to the Council.

The Council shall adopt the rules of procedure of the Committee of Experts by a two-thirds majority (2 / 3) of its members.

Commission (3):

## **Article 26.**

The Commission shall, in order to ensure the proper functioning and the general interest of the Union, the powers conferred on it by this Treaty. to this end, it shall:

- Transmits to the Conference and Council deems it opinions and recommendations

Useful in the maintenance and development of the Union;

- A delegation directly by the Council and under its control, the executive powers

Actions taken;

- Shall implement the budget of the Union;

- Gathers all information in the fulfilment of its mandate;

- An annual report on the functioning and development of the Union is

Inter-Parliamentary provided the Committee and the state legislatures

Members;

- The publication in the Official Gazette of the Union.

## **Article 27.**

The Commission shall consist of seven (7) Board members who are nationals of Member States. the members shall be appointed by the Conference of Heads of State and Government on the basis of the competence criteria and moral integrity.

The term of office of members is four (4) years and may be reappointed. during their term of office, members of the Commission are irrevocable, except in cases of misconduct or incapacity.

The Conference of Heads of State and Government may amend the number of members of the Commission.

## **Article 28.**

The Commission shall perform their functions independently in the general interest of the Union. they shall neither seek nor accept instructions from any Government or other body. Member States shall comply with their independence.

On taking up their duties, Members of the Commission shall undertake, on oath before the Court of Justice, to observe the obligations of independence and honesty inherent in their office. During their term of office they shall not engage in any other occupation, whether gainful or not.

## **Article 29.**

The salaries, allowances and pensions of members of the Commission shall be determined by the Council, acting by a two-thirds majority (2 / 3) of its members.

## **Article 30.**

The term of office of the members of the Commission shall not be interrupted by the resignation or revocation. the revocation is made by the Court of Justice at the request of the Council, to punish the breach of the obligations relating to the performance of the duties of a member of the Commission.

In the event of termination of the mandate of a member of the Commission, he shall be replaced for the remainder of that term.

Except revocation, the members of the Committee shall remain in office until they are replaced.

## **Article 31.**

The Governor of BCEAO participated in its own right, participate in meetings of the Commission. it may be represented. it may request the inclusion of an item in the agenda and propose to the Council to invite the Commission to take action within the framework of its mandate.

## **Article 32.**

The deliberations of the Commission shall be taken by a majority of its members. in the case of shares, the Chairman shall have the casting vote.

### **Article 33.**

The President of the Commission shall be appointed from among the members of the Conference of Heads of State and Government for a term of four (4) years and may be reappointed. the designation shall be effected in order to draw successively to the Chair of the Commission all Member States.

The President of the Commission shall determine the structure of the Commission services within the limit of the number of posts authorised by the Union Budget. it shall appoint to positions.

### **Article 34.**

The Commission shall establish its rules of procedure.

## **Section II. Parliamentary Oversight Bodies**

### **Article 35.**

Pending the establishment of a Parliament of the Union, there shall be established a committee of the Inter-Parliamentary Union. it shall be composed of five (5) members by state, designated by the legislature of each Member State.

The Committee shall, through dialogue and debate, integration efforts of the Union in the fields covered by this Treaty.

It may express its views in the form of resolutions and reports. in particular, it shall review the annual report submitted to it by the Commission in accordance with article 36.

The Committee on its own initiative or at the request of the President of the Council and the Chairman of the Committee may be heard by the Panel.

The Chair of the Committee shall be chaired by the Member State which holds the presidency of the Conference of Heads of State and Government.

The Committee shall meet at least once a year.

The Committee shall adopt its rules of procedure.

### **Article 36.**

The Committee shall report annually to the Commission on the functioning and development of the Union, in accordance with the provisions of article 26.

### **Article 37. The Committee Shall Be Consulted by the Conference for the Establishment of a Parliament**

The Committee shall be consulted by the Conference with a view to the establishment of a Parliament of the Union.

The draft Treaty establishing the Parliament of the Union shall be proposed by the Committee to the Conference.

The Parliament will be responsible for the democratic control of the organs of the Union and will participate in the decision-making process of the Union.

## **Section III. Judicial Review Bodies**

### **Article 38.**

There shall be established at union level two judicial bodies for review referred to Court of Justice and the Court of Auditors.

The status, composition, skills and the rules of procedures and functioning of the Court of Justice and the Court of Auditors are set out in Protocol No 1.

## **Article 39.**

The Additional Protocol I No forms an integral part of this Treaty.

## **Section IV. Advisory Bodies**

### **Article 40.**

There shall be established within the Union a consultative body called the Chambre Consulaire Regionale federations, consisting of the Member States and the details of which shall be determined by means of additional act of the Conference of Heads of State and Government.

Other advisory bodies may be established, as appropriate, by way of additional act of the Conference of Heads of State and Government.

## **Section V. Autonomous Specialized Institutions**

### **Article 41.**

The Central Bank of West African States (BCEAO) and the West African Development Bank (BOAD) are autonomous specialized agencies of the Union.

Without prejudice to the purposes for which they are established by the Treaty of the UEMOA, the Central Bank of West African States (BCEAO) and the West African Development Bank (BOAD) contribute independently to the achievement of the objectives of this Treaty.

The legal regime of "acts adopted by the organs

The Union

## **Chapter III. THE LEGAL REGIME OF THE ACTS TAKEN BY THE ORGANS OF THE UNION**

### **Article 42.**

In the performance of their tasks and under the conditions laid down in this treaty:

- The Conference takes supplementary acts, in accordance with the provisions of article 19.

- The Council shall establish regulations, directives and decisions; it may also

Make recommendations and / or advice;

- The Commission shall make regulations for the application of Council Acts and Decrees

Decisions; it may also make recommendations and / or advice.

### **Article 43.**

Regulations have a general scope. they are binding in their entirety and directly applicable in all member States.

The Guidelines are binding on all Member States as to the result to be achieved.

Decisions shall be binding in their entirety to those to whom they designate.

Recommendations and opinions shall have no binding force.

### **Article 44.**

Regulations, directives and decisions of the Council and the Commission shall be duly motivated.



## **Article 45. Chapter 12**

Additional Acts, regulations, directives and decisions shall be published in the Official Gazette of the Union. they shall enter into force after publication on such date as they may determine.

The decisions shall be notified to their addressees and shall take effect from the date of notification.

## **Article 46.**

The decisions of the Council or the Commission which shall bear the burden of persons other than States, a pecuniary obligation are enforceable.

Enforcement is governed by the Rules of Civil Procedure in force in the State in whose territory it takes place. the formula enforceable shall be made without further control than the verification of authenticity of the certificate by the National Authority, which the Government of each Member State shall designate for this purpose.

After the completion of these formalities, enforcement may be prosecuted by bringing the matter directly before the competent body in accordance with the national legislation.

Enforcement may be suspended only by a decision of the Court of Justice. however, the monitoring of the regularity of enforcement measures shall be subject to the jurisdiction of national courts.

## **Title III. THE UNION'S FINANCIAL REGIME**

### **Chapter I. GENERAL PROVISIONS**

#### **Article 47.**

The Council, acting by a two-thirds majority (2 / 3) of its members shall be taken by the Union budget on a proposal from the Commission before the beginning of the financial year.

The budget shall comprise all revenue and expenditure of the union institutions of this Treaty with the exception of specialized agencies of the autonomous central bank and the BOAD as well as those relating to the implementation of common policies.

The budget shall be in balance revenue and expenditure.

#### **Article 48.**

The Union shall have its own resources involved in the regular functioning.

#### **Article 49.**

The resources of the Union shall be subject to the principle of financial solidarity between Member States.

No State may invoke the equivalence between its financial contribution and benefit from the Union.

#### **Article 50.**

The Union does not comply with the Commitments of the central Government, local authorities, other public authorities, other bodies governed by public law or public undertakings of a Member State.

#### **Article 51.**

On a proposal from the Commission, the Council unanimously adopts the financial regulations specifying in particular the procedure for the formulation and implementation of the budget as well as the rules for the presentation and auditing.

The financial regulations establishing the rule of the authorising accounting officers and officers.

#### **Article 52.**

Prior to its submission to the Council, the draft budget is considered by the Committee of Experts referred to in article 25.

### **Article 53.**

The financial year shall run from 1 January and ending on 31 December each year.

If the budget has not been adopted before the beginning of the financial year, monthly payments may be made within a maximum of one twelfth of appropriations in the budget of the previous financial year.

## **Chapter II. THE UNION'S RESOURCES**

### **Article 54.**

The resources of the Union are including a portion of the product of the common external tariff, and indirect taxes levied throughout the Union. these resources will be paid directly to the Union.

The union may have recourse to loans, grants and external aid consistent with its objectives.

### **Article 55.**

A value added tax (VAT) of the Union shall be established and will replace the proportion of the total domestic production of indirect taxes referred to in article 54. where necessary, additional taxes may be taken by the Union.

### **Article 56.**

Within two (2) years of the entry into force of this Treaty, the Council acting by a two-thirds majority (2 / 3) of its members and on a proposal from the Commission, shall adopt detailed rules for the application of articles 54 and 55, in accordance with the guidelines established by the Conference of Heads of State and Government by means of additional Act.

### **Article 57.**

During the implementation phase of the system of own resources of the Union, which shall not exceed three (3) years from the date of entry into force of this Treaty, there shall be established by an additional act of the Conference of Heads of State and Government, a transitional arrangement whereby the start-up phase of the Union shall be provided by the Central Bank and the BOAD.

## **Chapter III. THE UNION'S INTERVENTIONS**

### **Article 58.**

The customs revenue losses suffered by certain Member States as a result of the establishment of the customs union shall be temporary special treatment.

This treatment shall include, during a transitional phase, an automatic financial compensation, packed for the progressive realization by the Member States concerned to a new tax base and a new structure of tax revenues.

The modalities of application of the transitional system of compensation shall be specified by means of additional Act.

### **Article 59.**

In connection with the financing of a balanced development of the community; the EU Structural Funds may establish the conditions which shall be determined by means of additional act of the Conference of Heads of State and Government.

## **Title IV. ACTIONS OF THE UNION CHAPTER I: HARMONIZATION OF LEGISLATION**

### **Chapter I. THE HARMONIZATION OF LEGISLATION**

#### **Article 60.**

Within the framework of the guidelines referred to in article 8, the Conference of Heads of State and Government shall draw up guidelines for the harmonisation of the laws of the Member States. It identifies priority areas where, in accordance with the provisions of this Treaty, the approximation of the laws of the Member States is necessary in order to achieve the objectives of the Union. It shall also determine the goals in these areas and general principles.

In the discharge of their functions, the Conference takes into account progress in the approximation of laws of the States of the region within the framework of the Union.

## **Article 61.**

The Council acting by a two-thirds majority (2 / 3) of its members, on a proposal from the Commission, shall adopt regulations or directives necessary for the implementation of the programmes referred to in article 60.

# **Chapter II. COMMON POLICIES**

## **Section I. On Monetary Policy**

### **Article 62.**

The monetary policy of the Union shall be governed by the provisions of the Treaty on 14 November 1973 establishing the African Economic and Monetary Union (WAEMU) and subsequent legislation. Without prejudice to the objectives assigned to them, it supports the economic integration of the Union.

## **Section II. On Economic Policy**

### **Article 63.**

Member States shall consider their economic policies as a matter of common concern and shall coordinate within the Council with a view to the achievement of the objectives set out in article 4 (b) of this Treaty. To this end, the Council shall establish a system of multilateral surveillance of economic policy of the Union under the modalities set out in articles 64-75.

### **Article 64.**

On a proposal from the Commission, the Council shall decide on the broad guidelines of the economic policies of the Member States and Union through the recommendations adopted by a two-thirds majority (2 / 3) of its members.

These guidelines relating to economic objectives of the Member States and the Union, including the objectives:

- Sustained growth of the average income;
- Distribution of income;
- Sustainable balance of the current account;
- International competitiveness enhancement of the economies of the Union.

They shall also take into account the requirement of fiscal arrangements compatible with the objectives of monetary policy, particularly that of price stability.

The Council shall inform the Parliamentary Committee of its recommendations.

### **Article 65.**

1) In order to ensure sustainable convergence of their economic performance and to lay the foundations for sustainable growth, by Member States of economic policies which comply with the broad guidelines referred to in article 64 and the rules laid down in paragraph 3 below.

2) The Council, acting by a two-thirds majority (2 / 3) of its members, on a proposal from the Commission shall:

- Adopt additional rules required for the convergence of national economic policies and their consistency with the monetary policy of the Union;

- The rules contained in this article and their implementing rules

As well as the time frame for implementation;

- Lays down the reference values of the quantitative criteria relied upon the observation

Rules of convergence.

Under the Convergence rules adopted by the Council, any excessive deficit shall be eliminated and fiscal policies must abide by a Joint Disciplinary to support the efforts of multi-annual fiscal consolidation and improving the structure of revenue and expenditure.

3) Member States shall harmonize their tax policies, in accordance with the procedure laid down in articles 60 and 61, to reduce excessive disparities prevailing in the structure and the importance of their tax.

Member States shall notify the Central Bank and the commission of any change in their domestic and external debt.

The Central Bank and the Commission would assist the Member States which wish to enter into negotiations or in the management of their domestic and external debt.

## **Article 66.**

The Council on a proposal from the Commission, shall examine the extent to which the price and income policies of the Member States and the actions of certain economic, social or professional groups have the potential to undermine the objectives of economic policy of the Union. it shall, if necessary, by a two-thirds majority (2 / 3) of its members and on a proposal from the Commission, recommendations and opinions. it shall inform the Committee and the advisory bodies of the Union.

## **Article 67.**

1) The Union harmonises legislation and procedures to ensure in particular budgetary synchronization with the multilateral surveillance procedure of the Union.

In so doing, it shall ensure the harmonization of laws of Finance and Public Accounts, in particular the General Accounts and Public Accountants plans. it shall also be the harmonization of national accounts and data necessary for the performance of the multilateral surveillance, particularly for the standardization of the scope of the operations of the public sector and tables of financial transactions.

2) The Council shall adopt, by a two-thirds majority (2 / 3) of its members regulations and directives necessary for the implementation of the measures referred to in this article.

## **Article 68.**

1) In order to ensure the reliability of financial information necessary for the organization of multilateral surveillance of fiscal, each member State shall, where appropriate, the provisions necessary to ensure that no later than one (1) year after the entry into force of this Treaty, all its accounts can be checked in accordance with procedures offering the guarantees of transparency and independence. such procedures shall include to certify the accuracy of the data contained in the initial finance remedial and laws and regulations.

2) Open procedures for this purpose at the choice of each Member State are:

- Recourse to review by the court of auditors of the Union;

- Establish a national court of auditors may have recourse to a

External audit system. the Court shall transmit its observations to the court of auditors of the Union.

3) Member States shall keep the Council and the Commission informed of the steps they have taken to comply immediately with the obligation. the Commission shall verify that the effectiveness of the procedures used are met.

4) The Council shall adopt, by a two-thirds majority (2 / 3) of its members the necessary regulations and directives for the implementation of these measures.

## **Article 69.**

The Chairs of the accounts of the Member States and the members of the Court of Accounts of the Union shall meet at least once a year at the request of the President of the Court of Accounts of the State holding the Presidency of the Conference of Heads of State and Government, to undertake an assessment of the audit systems and the results of the checks carried out during the preceding financial year.

They shall establish a report accompanied, where appropriate, suggestions for improvement of control systems, including the harmonization of procedures and the establishment of common standards of control. this report shall rule on the conformity of the accounts submitted by the Member States of the Union in the budgetary and accounting rules, as well as their reliability. it shall be forwarded to the Council, the Commission and the Inter-Parliamentary Committee.

## **Article 70.**

For the purpose of multilateral surveillance, Member States shall regularly forward to the Commission all necessary information, including statistical data and information on economic policy measures.

The Commission shall by decision of the nature of the information available to the transmission of the Member States. the authentic statistical data for the purpose of multilateral surveillance of the Union shall be those set by the Commission.

## **Article 71.**

Where a Member State is facing serious economic and financial difficulties or is likely to deal with such difficulties due to exceptional events, the Council acting unanimously on a proposal from the Commission, may exempt, for a maximum period of six (6) months, that Member State in respect of all or part of the requirements set out in the framework of the multilateral surveillance procedure.

Then the Council, acting by a two-thirds majority (2 / 3) of its members, may submit to the Member State concerned guidelines on the measures to be implemented.

Before the expiry of the period of six (6) months referred to in paragraph 1, the Commission shall report to the Council on developments in the Member State concerned and on the implementation of directives made. on the basis of this report, the Council may decide unanimously on a proposal from the Commission to extend the period for exemption by establishing a new deadline.

## **Article 72.**

1) Within the framework of the multilateral surveillance procedure, the Commission shall submit to the Council and make publicly available a half-yearly report. this report covers economic performance and policy convergence and compatibility with the monetary policy of the Union. it shall examine the proper implementation by Member States of recommendations made by the Council pursuant to articles 64 to 66. it shall take account of any adjustment programmes in force at the level of the Union and the Member States.

If a Member State does not satisfy the requirements referred to in the preceding paragraph, the Commission shall, in an annex to the report, proposals for guidance to it. they shall specify the corrective measures to be implemented. subject to paragraph 2 of this article, this annex shall not be made public.

2) The Council takes note of the performance report referred to in paragraph 1. it adopts by a two-thirds majority (2 / 3) of its members in this context the proposals made by the Commission. by way of derogation from article 22 of this Treaty, it has the power to amend them by a two-thirds majority (2 / 3) of its members. it shall inform the parliamentary committee.

If the Council has not been able to meet the conditions of majority required for the adoption of a directive after the first review, the Commission may make public its proposal.

## **Article 73.**

The member State of destination of a directive issued by the Council within the framework of multilateral surveillance, prepared in consultation with the Commission and within thirty (30) days, a programme for corrective measures.

The Commission shall verify the compliance of the measures envisaged in the Council Directive and economic policy of the Union and includes any adjustment programmes in force.

## **Article 74.**

The exercise of multilateral surveillance of the Union is based on the report of the Commission, any Council directives and any Opinion of the Inter-Parliamentary Committee pursuant to the procedures set out in article 72.

The Council may consolidate these procedures through the implementation of a range of specific measures, affirmative or negative, in the following manner:

a) The establishment, recognized by the commission of a recognized programme

In accordance with the terms of article 73, offers to the Member State concerned the benefit of positive measures which shall include:

- The issuance of a statement of the Commission;
- The support of the Union in the search for financing required for the implementation

The corrective measures in accordance with the provisions of article 75.

- Priority access to available resources of the Union.

b) If a Member State has not been able to draw up an amending programme within the time limit laid down in Article 73, or if the Commission has not recognised the conformity of the said programme with the Council Directive and the economic policy of the Union, or if the Commission finds that the amending programme has not been implemented or has been poorly implemented, it shall, as soon as possible, submit a report to the Council, together with any proposals for explicitly negative measures. It may make its report public.

c) Consideration of the reports and proposals for sanctions referred to in paragraph (b) shall be placed on the agenda of a Council meeting as of right at the request of the Commission.

The principle and nature of sanctions shall be the subject of separate deliberations. The deliberations of the Council shall be adopted by a two-thirds (2/3) majority of its members. Notwithstanding Article 22 of this Treaty, proposals for sanctions may be amended by the Council by a two-thirds (2/3) majority of its members.

The Council shall inform the Inter-Parliamentary Committee of the decisions taken.

d) Explicit sanctions that may be applied include the following range of graduated measures - the publication by the Council of a communiqué, possibly accompanied by additional information on the situation of the State concerned

- the withdrawal, publicly announced, of any positive measures from which the member state may have benefited
- the recommendation to BOAD to review its intervention policy in favor of the member state concerned
- the suspension of Union assistance to the Member State concerned.

By way of an additional act to this Treaty, the Assembly of Heads of State and Government may supplement this range of measures with additional provisions deemed necessary to strengthen the effectiveness of the Union's multilateral surveillance.

## **Article 75.**

At the request of a Member State eligible for positive measures under Article 74(a), the Union shall assist in mobilising the additional resources needed to finance the corrective measures recommended. To this end, the Commission shall use all the means and authority at its disposal to support the Member State concerned in the consultations and negotiations required.

## **Section III. The Common Market**

Paragraph 1: General provisions

## **Article 76.**

In view of the institution of the common market in accordance with article 4 (c) of this Treaty, the Union continues to the

progressive realization of the following objectives:

- a) The Elimination on trade between member States of customs duties and quantitative restrictions on entry and exit charges having equivalent effect, and any other measures having equivalent effect which might affect those transactions, subject to compliance with the rules of origin of the Union as may be specified by way of Additional Protocol;
- b) The establishment of a common external tariff (TEC);
- c) The establishment of common rules on competition to public enterprises and private and public aid;
- d) The implementation of the principles of freedom of movement of persons, and supply of services and the freedom of movement of capital required for the development of regional financial market;
- e) The harmonisation and mutual recognition of standards and technical accreditation and certification procedures for the control of their comments.

Paragraph 2: the free movement of goods

### **Article 77.**

With a view to the achievement of the objective set out in article 76 (a), Member States shall refrain from the entry into force of this Treaty.

- a) Introducing new them any customs duties on imports and exports

And any charges having equivalent effect and increasing from those they apply in their mutual trade relations;

- b) Introducing them new quantitative restrictions on exports or

Imports or equivalent measures having effect, as well as more restrictive quotas, standards and any other measures having equivalent effect.

In accordance with Article XXIV (5) (a) of the General Agreement on Tariffs and Trade (GATT), the Union shall ensure that the overall impact of tariffs and other regulations trade with third countries shall not be more restrictive than the provisions in force before the establishment of the Union.

### **Article 78.**

On a proposal from the Commission, the Council acting by a two-thirds majority (2 / 3) of its members, determined in accordance with the provisions of Article 5 of this Treaty, the pace and modalities for elimination on trade between member States of customs duties and quantitative restrictions or any other measures having equivalent effect. it shall adopt the necessary regulations.

The Council shall take into account the impact of the unification of national markets on public economics and finance of Member States, creating compensation fund and development.

### **Article 79.**

Subject to the measures for the harmonization of national legislation developed by the Union, Member States retain the right to establish and maintain prohibitions or restrictions on imports, exports and transit justified on grounds of public morality, public policy or public security; the protection of life and health of humans, animals and preservation of the environment, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property.

The prohibitions or restrictions applied in accordance with the preceding paragraph shall not be used as a means of arbitrary discrimination or a disguised restriction on trade between member States.

Member States shall notify the Commission of all restrictions maintained pursuant to paragraph 1 of this article. the Commission shall make an annual review of such restrictions with a view to proposing harmonization or their progressive elimination.

### **Article 80.**

On a proposal from the Commission, the Council shall adopt by a two-thirds majority (2 / 3) of its members a blueprint on the harmonisation and mutual recognition of technical and sanitary requirements and procedures for licensing and certification in force in the member States.

### **Article 81.**

The Council shall, on a proposal from the Commission and by a two-thirds majority (2 / 3) of its members, regulations necessary for the implementation of the scheme referred to in article 80.

Paragraph 3: trade policy

### **Article 82.**

With a view to the achievement of the objectives set out in article 76, paragraphs (a) and (b) of this Treaty, the Council adopted by a two-thirds majority (2 / 3) of its members, on a proposal from the Commission shall:

- a) Measures relating to the harmonisation of laws and regulations, Member States' administrative necessary for the functioning of the Customs Union;
- b) The regulations on the Common External Tariff (TEC);
- c) The regulations laying down the conditions of trade policies with third States;
- d) The arrangements applicable to raw products and handicrafts.

### **Article 83.**

In achieving the objectives set out in article 76 of this Treaty, the Union shall respect the principles of the General Agreement on Tariffs and Trade (GATT) in preferential trade regime. It shall take account of the need to contribute to the harmonious development of intra-African world and to promote the development of productive capacities within the Union, protect the production of the Union against policies of dumping and subsidies from third countries.

### **Article 84.**

The Union shall conclude international agreements within the framework of the Common Commercial Policy in the following manner:

- The Commission shall make recommendations to the Council which allows the majority of , two thirds of its members to open the necessary negotiations;
- The Commission shall conduct these negotiations in consultation with a committee appointed by the Council and within the framework of the guidelines issued by the Committee.

The agreements referred to in paragraph 1 shall be concluded by the Council acting by a two-thirds majority (2 / 3) of its members.

### **Article 85.**

If the agreements referred to in article 84 shall be negotiated in international organisations in which the union representation is not own member States comply with their negotiating positions to the guidance provided by the Council by a two-thirds majority (2 / 3) of its members and on a proposal from the Commission.

Where the ongoing negotiations within international organizations of an economic nature might affect the operation of the common market but the powers of the Union and the Member States shall coordinate their negotiating positions.

### **Article 86.**

The Council, acting by a two-thirds majority (2 / 3) of its members on a proposal from the Commission, laid down by regulation of the conditions under which Member States are authorised to take, by way of derogation from the general rules



of the Customs Union and the Common Commercial Policy, protective measures designed to deal with serious difficulties in one or more sectors of their economies.

Safeguard measures adopted under the regulations adopted pursuant to the preceding paragraph shall not exceed a period of six (6) months and may be renewed. They should be authorised by the Commission, both in their duration and content, prior to their entry into force.

## **Article 87.**

Member States shall refrain from concluding conventions. They are aligning as soon as possible, the existing conventions on the harmonization of the laws referred to in article 23 of the Protocol II, in accordance with the procedure laid down in articles 60 and 61.

Paragraph 4: competition rules

## **Article 88.**

One (1) year after the entry into force of this Treaty, the following shall be prohibited as a matter of law:

a) The agreements, associations and concerted practices between undertakings which have as their object or

The effect of restriction or distortion of competition within the Union;

b) Any practices by one or more undertakings, constitute an abuse of position

Dominant in the common market or in a substantial part thereof;

c) Public aid to distort competition by favouring certain undertakings or the production of certain goods.

## **Article 89.**

The Council, acting by a two-thirds majority (2 / 3) of its members and on a proposal from the Commission shall upon the entry into force of this Treaty by means of regulations, the necessary measures to facilitate the implementation of the prohibitions referred to in article 88.

It shall, in accordance with the procedure, the rules to be followed by the Commission in the exercise of powers conferred by article 90 and fines and penalties designed to penalize violations of prohibitions laid down in article 88.

It may also establish rules specifying the prohibitions laid down in article 88 or limited exceptions to these rules in order to take account of specific situations.

## **Article 90.**

The Commission shall be responsible, under the supervision of the Court of Justice of the application of the competition rules laid down in articles 88 and 89. Within the framework of this mission, it shall have the power to take decisions.

Paragraph 5: the free movement of persons, services and capital.

## **Article 91.**

1) Subject to limitations justified on grounds of public policy, public security or public health, nationals of a Member State shall be throughout the Union of freedom of movement and residence means:

- The abolition of the Member States between nationals of any discrimination based on nationality, as regards research and employment, except for public service - the right to move and reside in the territory of the Member States;

- The right to reside in a Member State after having been employed.

2) The Council, acting by a two-thirds majority (2 / 3) of its members and on a proposal from the Commission shall upon the entry into force of this Treaty, by means of a regulation or directive, the necessary measures to facilitate the effective use of the rights referred to in paragraph 1.

3) In accordance with the procedure laid down in paragraph 2, the Council shall adopt rules:

a) Setting out the arrangements for members of the families of persons using

These rights;

b) In order to ensure that migrant workers and their successors of continuity

Enjoyment of benefits that may be available under successive periods of employment in the territory of all Member States;

c) Setting out the scope of the limitations justified on grounds of public policy, public security or public health.

## **Article 92.**

1) The nationals of a Member State shall enjoy the right of establishment in the entire territory of the Union.

2) Shall be assimilated to nationals of the Member States; companies and legal persons constituted in accordance with the laws of a Member State and having their registered office, central administration or principal place of business within the Union.

3) The right of establishment shall include the right to take up and pursue activities as self-employed persons and the establishment and operation of companies, in accordance with the conditions prescribed under the laws of the country for establishment of its own nationals, subject to limitations justified on grounds of public policy, public security or public health.

4) The Council, acting by a two-thirds majority (2 / 3) of its members and on a proposal from the Commission shall upon the entry into force of this Treaty, by means of a regulation or directive, the necessary measures to facilitate the effective use of the right of establishment.

5) Article 91 (3) shall apply mutatis mutandis.

## **Article 93.**

The nationals of each Member State may provide services in another Member State under the same conditions as those which that member State imposes on its own nationals, subject to limitations justified on grounds of public policy, public security or public health and without prejudice to the exceptions provided in this Treaty.

Article 91 (3) and article 92 (2) and (4) shall apply mutatis mutandis.

## **Article 94.**

By way of derogation from articles 92 and 93 and subject to the harmonization of national legislation developed by the Union, Member States may maintain restrictions on the exercise by nationals of other Member States or by companies controlled by them, certain activities when such restrictions are justified on grounds of public policy, public security, public health or other reasons of public interest.

Member States shall notify the commission of any restrictions maintained in accordance with the provisions of the previous paragraph. the Commission shall make an annual review of such restrictions with a view to proposing harmonization or their progressive elimination.

## **Article 95.**

In accordance with the procedure laid down in articles 60 and 61, the harmonization of national provisions regulating the exercise of certain economic activities or professions as well as the abolition of restrictions maintained pursuant to article 93, with a view to facilitating the development of the common market and in particular regional financial market.

## **Article 96.**

Within the framework of this Treaty, restrictions on movement, within the Union, capital belonging to persons resident in the Member States shall be prohibited.

## **Article 97.**

1) Article 96 shall not affect the right of Member States to

- a) To take necessary measures to prevent infringements of their tax laws;
  - b) If possible, include provisions to strengthen the means of statistical information on capital movements;
  - c) Take measures which are justified on grounds of public policy or public security.
- 2) The free movement of capital relating to direct investments in companies as defined in article 92, paragraph 2 is without prejudice to the possibility of applying restrictions on the right of establishment consistent with the provisions of this Treaty.
- 3) The proceedings and measures referred to in paragraphs 1 and 2 shall not be used as a means of arbitrary discrimination or a disguised restriction on the free movement of capital as defined in article 96.

### **Article 98.**

Without prejudice to the application of the Treaty of the UEMOA, the Council acting by a two-thirds majority (2 / 3) of its members on a proposal from the Commission shall upon the entry into force of this Treaty, by means of a regulation or directive, the necessary measures to facilitate the exercise of the actual use of the rights provided for in articles 96 and 97.

### **Article 99.**

Upon the entry into force of this Treaty, the Member States shall not introduce any new restrictions on the Exercise of the rights provided for in articles 93 to 96. any restrictions may be maintained if it is a means of arbitrary discrimination or a disguised restriction on the exercise of such rights.

### **Article 100.**

In order to achieve the objectives set out in article 76 of this Treaty, the Union shall take into account the results of the African subregional organizations attended by its member States.

## **Chapter III. SECTORAL POLICIES**

### **Article 101.**

As a complement to the joint Economic policies carried out at Union level, there shall be established a legal framework defining sectoral policies to be implemented by Member States.

These sectoral policies as set out and defined in the Protocol II.

### **Article 102.**

The Additional Protocol II shall form an integral part of this Treaty.

## **Title V. MISCELLANEOUS PROVISIONS**

Miscellaneous provisions "Chapter I: the admission of new members and associate members

## **Chapter I. ADMISSION OF NEW MEMBER STATES AND ASSOCIATE MEMBERS**

### **Article 103.**

Any West African State may apply to become a member of the Union. it shall submit its request to the Conference of Heads of State and Government which shall decide on the basis of a report by the Commission. the conditions of accession and the adjustments that it has produced of this Treaty shall be the subject of an agreement between the Member States and the applicant State.

This agreement is subject to ratification by the Member States in accordance with their respective constitutional requirements.

However, if the accession does not involve adaptations of a purely technical nature, the Agreement shall be approved by the Conference of Heads of State and Government.

#### **Article 104.**

Any African State may request to participate in one or more union policies as associate member.

The terms of any such association shall be the subject of an agreement between the requesting State and the Union.

The Agreement shall be determined by the Conference of Heads of State and Government. page 27

#### **Article 105.**

The working language of the Union shall be French. The Conference of Heads of State and Government may add other working languages.

## **Chapter II. THE REVISION AND DENUNCIATION OF THE TREATY OF THE UNION**

#### **Article 106.**

Any member State or the Commission may submit to the Conference of Heads of State and Government of the proposals for revision of this Treaty.

Modifications approved by the Conference of Heads of State and Government shall enter into force after having been ratified by all Member States in accordance with their respective constitutional requirements.

#### **Article 107.**

This treaty may be denounced by all Member States.

Unless special provisions adopted by the Conference of Heads of State and Government, it shall cease to have effect in respect of the State in question on the last day of the sixth month after the date of receipt of the notification by the depositary.

In the event of termination, the Conference of Heads of State and Government provided by means of Act additional adjustments to the provisions of this Treaty arising from this denunciation.

"Transitional and Final Provisions Chapter I: the establishment of bodies of the Union

### **Title VI. TRANSITIONAL AND FINAL PROVISIONS**

## **Chapter I. THE SETTING UP OF THE UNION'S BODIES**

#### **Article 108.**

During the first session of the Council following the entry into force of this Treaty, the Constitution of the Commission.

The Commission shall enter depending upon its creation.

#### **Article 109.**

The Court of Justice is lodged within a period of six (6) months after the entry into force of this Treaty. the Court of Justice between depending upon the appointment of its members. it shall adopt its rules of procedure within three (3) months from the date of its entry into force. the time limits for the submission of an appeal runs from the date of publication of this regulation.

#### **Article 110.**

The first financial period from the date of entry into force of the Treaty until 31 December following. however, this process

lasts until 31 December of the year following the date of entry into force of the treaty, whichever is during the second half.

Pending the adoption of the Staff Regulations of officials and other servants of the Union, the necessary staff shall be recruited by the Commission finds that Effect of fixed-term contracts.

## **Article 111.**

The Conference of Heads of State and Government shall determine the headquarters of the Commission to the Court of Justice and the Court of Auditors.

## **Chapter II. THE REVISION OF THE UMOA TREATY**

### **Article 112.**

In a timely manner, the Conference of Heads of State and Government will adopt a treaty the merging of the UEMOA Treaty and the present Treaty.

Pending the merger of the UEMOA, the Treaty shall be amended in accordance with the provisions of articles 113 to 115 below.

### **Article 113.**

1) Article 1

"The West African Monetary Union established between the States Parties to this Treaty is characterized by the recognition of a common currency which is responsible for issuing a common supporting the national economies, under the control of Governments, in accordance with the terms set out below."

Is supplemented by:

"the Treaty Establishing the African Economic and Monetary Union (WAEMU) is supplemented by the Treaty Establishing the African Economic and Monetary Union (UEMOA), hereinafter referred to as the Treaty of WAEMU".

2) Article 2, paragraph 2

"the arrangements for its accession shall be determined by agreement between the Government and the Governments of the member States of the European Union on the proposal of the Council of Ministers established under Title III below."

Shall read as follows:

"the modalities for the admission shall be adopted in accordance with the procedure laid down in article 103 of the Treaty of WAEMU".

3) Article 4

"the Signatory States undertake, subject to automatic exclusion of the Union, to comply with the provisions of this Treaty and of acts adopted for its implementation, including with regard to:

1. The rules for the issuance,
2. The centralization of monetary reserves;
3. The free movement and freedom of signs of monetary transfers between States

The European Union,

4. The provisions of articles below.

"The Conference of Heads of State of the Union finds by unanimity of the Heads of State of the other members of the union thereof, the withdrawal of a State did not comply with the above commitments. the Council of Ministers draw the consequences as may be required to preserve the interests of the Union."

Shall read as follows:

"Member States to undertake the automatic exclusion of the Union, to comply with the provisions of this Treaty, of the

Treaty on European Union and the texts implementing them, including with regard to:

- i) The rules for the issuance,
- ii) The centralization of monetary reserves;
- iii) The free movement and freedom of signs of monetary transfers between States

The European Union,

(IV) The provisions of articles below.

In accordance with the procedure laid down in article 6 of the Additional Protocol I No the Court of Justice of the European Union has jurisdiction over the failure of Member States with their obligations under the Treaty of the Union."

If the Member State which has not fulfilled its obligations has not carried out in response to the invitation referred to in article 6 of this Protocol, the Conference of Heads of State and Government mentioned unanimity of Heads of State and Government of the other member States of the Union, the withdrawal of that State. article 107 (3) of the Treaty of WAEMU shall apply mutatis mutandis.

Furthermore, the Council acting unanimously may take such measures as may be required to preserve the interests of the Union.

## **Article 114.**

Article 5

"the heads of the Union member States of the Conference is the highest authority of the Union.

The Conference of Heads of State decides to the accession of new Members, notes the withdrawal and exclusion of members of the European Union and shall fix the headquarters of the Institute of issuance.

The Conference of Heads of State shall decide on any matter unable to find a solution by unanimous agreement of the Council of Ministers of the union and shall in its decision.

The decisions of the Conference, hereinafter referred to as "acts of the Conference shall be taken by consensus.

The Conference Headquarters during a calendar year in each of the member States of the Union alternately in alphabetical order of their appointment.

It shall meet at least once a year or as often as necessary, on the initiative of its Chairman or at the request of one or more of the Heads of State of the Union.

The Chair of the Conference shall be provided by the head of the Member State in which the Conference.

The Chair shall fix the date and venue of meetings and adopt the agenda of work.

In case of emergency, he or she may consult at home other Heads of State of the Union "by a written procedure.

Is supplemented by the following subparagraph:

"the President of the Commission, the Governor of the Central Bank and the Chairman of the BOAD may attend the meetings of the Conference of Heads of State and Government to express their views on the agenda items" affecting them.

## **Article 115.**

1) Article 7, last subparagraph

"for the performance of its duties, the President of the Council of Ministers may obtain information and the assistance of the Central Bank Union. it shall provide for the organization of meetings of the Council of Ministers and its secretariat.

Shall be amended as follows:

"The Council may invite the Commission, BCEAO and BOAD to submit reports and to take any useful initiative to the achievement of the objectives of the Union. the Commission, BCEAO and BOAD shall provide for the organization of meetings of the Council of Ministers and its secretariat.

## 2) Article 8

The Governor of the Central Bank of the Union shall attend the meetings of the Council of Ministers. it may apply to be heard by the latter. it may be assisted by his staff which it considers necessary "assistance.

Shall read as follows:

"the President of the Commission or a member thereof as well as the Governor of the Central Bank and the Chairman of the BOAD shall be present at the meetings of the Council. they may apply to be heard by the latter. they may be assisted by their officials from which they consider necessary "assistance.

## **Chapter III. THE ENTRY INTO FORCE OF THE UEMOA TREATY**

### **Article 116.**

This Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional requirements. the instruments of ratification shall be deposited with the Government of the Republic of Senegal.

This Treaty shall enter into force on the first day of the month following the deposit of its instrument of ratification of the signatory State who will be the last to fulfil that formality. however, if the application is less than fifteen (15) days before the beginning of the month following the entry into force of the treaty would be postponed until the first day of the second month following the date of such deposit.

In witness whereof, have affixed their signatures to this Treaty on 10 January 1994 for the Republic of Benin for the Republic of Mali

H.E. Nicéphore Dieudonné Soglo H.E. Alpha Oumar Konare

The President of the Republic

For Burkina Faso for the Republic of Niger H.E. President Mahamane Ousmane H.E. Blaise Compaore of Burkina Faso  
President of the Republic

For the Republic of Côte d'ivoire For the Republic of Senegal s E. danielkablan duncans.e. President Abdou Diouf Prime  
Minister of the Republic

For THE REPUBLIC OF TOGO

H.E. Mr. Joseph Kokou Koffigoh

Prime Minister page 32

The Conference of Heads of State and Government of the African Economic and Monetary Union (UEMOA):

Having regard to the Treaty establishing the WAEMU in articles 4, 16, 17, 18, 19, 58, 60, 76, 77, 78, 79, 80 and 100,

Recognizing the need to take into account the acquis of the African subregional organizations attended by the member countries of the Economic and Monetary Union,

Desirous of the free movement of goods in the territory of the Union and the elimination in trade between member States of customs duties and charges having equivalent effect and any other measures which might affect those transactions;

Desiring to promote exchanges within WAEMU,

Bearing in mind the recommendations of the Council of Ministers of WAEMU meeting on 22 December 1994 in Lomé, Togo,

On the proposal of the Council of Ministers on the basis of a report from the Commission shall adopt the Act which reads as follows:

A preliminary chapter I: definitions

### **Article premier.**

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

- a) WAEMU West African Economic and Monetary Union:
- b) Union: West African Economic and Monetary Union
- c) Member State: any State that has signed and ratified the Treaty of the West African Economic and Monetary Union.
- d) Preferential tax TPC community
- e) Community solidarity levy: PCs
- f) Entry duties: a set of customs duties and taxes with equivalent effect applicable to goods entering the territory of a Member State
- g) Domestic taxes: all taxes applicable within the country, VAT and other excises
- h) Exit duties: all customs duties applicable to goods when they leave the territory of a Member State of the Union.

Departure from the territory of a State Member of the Union.

## **Article 2.**

This Act establishes a transitional preferential treatment to regulate trade among the member States of the Union, pending the establishment of the Preferential Tariff Scheme.

This Act covers:

- Trade liberalization within WAEMU;
- The rules of origin of WAEMU;
- The customs procedure applicable:
  - The raw products
  - The products of traditional handicrafts
  - For industrial products originating approved
  - For industrial products originating unauthorized
- The Solidarity Community levy scheme (PCs) and its allocation;
- Customs procedures governing the movement of goods within the Union;
- The promotion of trade in the products of the Member States within the Union and third country.

## **Title II. Trade Liberalization Within WAEMU**

### **Article 3.**

In trade between Member States, all quantitative restrictions, non-tariff barriers, prohibitions or other measures having equivalent effect on imports or exports of products originating or produced in the Member States shall be lifted.

## **Title III. THE RULE OF ORIGIN WITHIN THE UEMOA**

### **Chapter I. LOCAL PRODUCTS**

#### **Article 4.**

The following shall be considered as products originating in the member States of the Union, the mineral products of animal and plant, which has not undergone any industrial processing, namely:

- a) Mineral products extracted from their soil or brought ashore coastlines;



- b) Live animals born and raised there;
- c) Vegetable products harvested there;
- d) Practised hunting and fishery products in their territories;
- e) The products taken from the Sea by vessels registered in a Member State and flying

The flag of that State or, alternatively recognized originating products;

- f) Products from live animals raised there livestock and by-products minerals.

### **Article 5.**

The above-mentioned products and by-products which without giving rise to an industrial processing, received a finishing intended to preserve them in good condition and facilitate the movement, shall retain the quality of raw products.

## **Chapter II. PRODUCTS OF THE TRADITIONAL CRAFT INDUSTRY**

### **Article 6.**

Means of traditional handicrafts products originating in the EU member States generally articles made by hand, with or without the assistance of tools, instruments or devices directly by the coordinators.

## **Chapter III. INDUSTRIAL PRODUCTS**

### **Article 7.**

The following shall be considered as originating industrial products:

- a) Industrial products which are incorporated in the production of raw materials

Community representative quantity at least 60 per cent of the entire raw materials used.

- b) Industrial products obtained from raw materials imported from the countries entirely

Third parties or in the manufacture of which the Community raw materials used in quantity, represent less than 60 per cent of all raw materials used, where the value added is not less than 40 per cent of the cost of these ex-usine duty-free products.

The modalities for the determination of value added shall be specified by a decision of the Commission.

These percentages are open by the Council of Ministers.

### **Article 8.**

Notwithstanding the provisions of article 7 (b), the following in no case shall accord to products originating in third countries to the community origin:

- Operations to ensure the preservation of goods in good condition;
- Of dust, sifting or screening, sorting, classifying (matching), washing, painting, cutting up;
- Change of packaging;
- Division of packages and assembly;
- Entry into containers such as bags, bottles, boxes, etc., appositions of labels or markings

Like any other distinguishing and packaging operations;

- Combination of two or more operations specified in points above;
- Slaughter of animals;

- Salting, placing in brine, drying and smoking meat, fish, crustaceans, molluscs and shellfish;
- Frozen meat offal, fish, molluscs, crustaceans, shellfish, fruit, vegetables and Vegetable plants;
- Prepared or preserved meat offal, or blood, fish, crustaceans and molluscs from products of two and three chapters;
- 29.04;
- Cutting, nervure, whether or not put up in sheets and strips of all kinds;
- Assembled and installation.

## **Chapter IV. THE JUSTIFICATION OF THE ORIGINATING STATUS OF THE PRODUCT**

### **Article 9.**

The community of origin industrial products will be evidenced by a certificate of origin the percentage of raw materials originating or, where appropriate, the rate of the value added. as regards the community of origin raw products and handicrafts, it shall be evidenced by a certificate of origin. such licences shall be issued by the competent authorities and endorsed by the customs authority of the Member State of manufacture or production.

## **Title V. THE CUSTOMS REGIME APPLICABLE TO RAW MATERIALS, TRADITIONAL CRAFTS AND INDUSTRIAL PRODUCTS**

### **Chapter I. THE CUSTOMS REGIME APPLICABLE TO RAW MATERIALS AND TRADITIONAL CRAFTS**

#### **Article 10.**

The products of raw and traditional handicrafts shall be exempt from all duties and taxes levied upon the entry of Member States, excluding, where appropriate, any internal taxes levied equally the products, whether locally produced or imported from third countries.

#### **Article 11.**

The list of local products and that of traditional handicrafts benefiting from the regime of the exemption provided for in Article 10 above and the procedures applicable to their movement are attached to this Act and will be regularly updated by decision of the Commission.

### **Chapter I. The System of Industrial Products Originating Approved**

#### **Article 12.**

Approved originating products shall benefit on importation into a State Member of the Community preferential charge equivalent to a reduction of 30 per cent of the import duty applicable to products imported from third countries, excluding any internal taxes or specific ad valorem tariffs of the case, whether locally or products are imported.

The reduction referred to in the preceding paragraph shall apply for a period of 12 months from the date of entry into force of this Act.

Thereafter, there shall be established a final preferential tariff schedule of the union in accordance with the conditions laid down in article 78 of the Treaty.

### **Chapter II. The Treatment of Industrial Products Originating Unauthorized**

#### **Article 13.**

Industrial Products Originating In the Union Not Approved In Accordance with the Provisions of Article 7 Above Shall Benefit on Importation Into a Member State to a Reduction of 5 Per Cent Import Duty Applicable to Products Originating In the Countries Tiers.

## **Section III. The Approval of Industrial Products Originating In the Community**

### **Article 14.**

Authorisation for the benefit of the TPC shall be granted by the commission of a given product manufactured by one or more enterprises in one or more member States.

Requests shall be submitted by the Governments of the Member States in which are established enterprises whose products are eligible to this scheme. the Commission shall notify its decision as a general rule within three months of the submission of the dossier, after obtaining the opinion of experts of the Member States.

The Community shall ad valorem preferential tax. the Base is the customs value as defined in the national legislation of each Member State.

In any event, this value exempting administrative values shall be the same as that which would have been used for the purposes of taxation of the same product originating in a third country.

The withdrawal of the authorisation may be granted by the Commission on a reasoned request of one of the Member States.

## **Chapter IV. The Marking of the TPC Authorised for Industrial Products**

### **Article 15.**

The approved products to the special regime of the TPC on themselves, when it is technically feasible and their packaging, internal and external identification markings.

The Community "solidarity levy scheme of allocation and its chapter I: the Solidarity Community levy

### **Article 16.**

There is hereby established a solidarity levy called the Community levy (PCS) of 0.5 per cent of the customs value of goods imported from third countries by Member States of the Union.

## **Chapter II. THE PCS BASE**

### **Article 17.**

The base of PCs consists of imports in all Member States, to products originating in third countries in the union and released for consumption.

The base shall not apply to:

- Products originating in the Union;
- Products produced or obtained in a State Member of the Union and which does not fulfil the Origin requirements laid down in articles 4, 5, 6, 7, 8 and 9 of this Act;
- Products originating in third countries nationalized by their release for consumption in a State

Said prima facie and returned in another Member State.

### **Article 18.**

Shall be exempted from PCs:

- The aid and grants for the State or charitable purposes;
- Goods in transit;
- Property acquired within the framework of funding for foreign partners in  
Reservation of a specific exclusion clause or para-fiscal all taxation;
- Goods originating in the customs territory of a Member State and return to the State;
- The goods declared for the storehouse;
- The goods have been fulfilled the PCs under an earlier;
- The goods imported by the recipient firms of a taxation stabilized at the date

From entry into force of this Act;

- The goods benefiting from diplomatic allowances;
- Petroleum products.

### **Article 19.**

The base of PCs shall be the value for customs purposes as defined by each Member State.

### **Article 20.**

The rate of levy may be amended by Act of the Conference of Heads of State and Government.

## **Chapter III. Disposal and Recovery of PCs**

### **Article 21.**

The products of PCs are levied directly by the Union. to this end, the national administrations shall be authorized to collect and investment in an account opened on behalf of the Union, BCEAO in each Member State.

Payments shall be made by the parties, either in cash or by cheque on behalf of the Union.

In the event of the Union of non-reversment to products of PCs levied by the National Administration, BCEAO is permitted to be charged to the public treasury account of the country concerned, page 39

On behalf of the Union in the amount of PCs not returned, subject to compliance with the ceiling of discovered as provided for in article 16 of the Statute of the Central Bank.

The modalities of application shall be specified by means of regulations adopted by the Commission.

### **Article 22.**

The rights and privileges accorded to national treasures in the recovery of tax claims of the State shall extend to the rights and obligations under the regular pcs.

## **Chapter IV. The Allocation of Proceeds of PCs**

### **Article 23.**

The revenue collected in respect of the Community levy solidarity are the following:

1. Compensation for losses tax

The revenue losses suffered by the importing States of products originating in the other member States of the Union as a result of the application of this preferential treatment are the subject of provisional financial compensation; such

compensation shall be provided by the Commission.

On the basis of copies of customs declarations received as at 30 June and 31 December each year the Commission shall, after consultation with the Member States concerned, the losses amounts established by each State. it shall then the amount of the compensation, within a maximum period of 60 days from the date of the judgment.

2. Establishment of a reserve fund intended to cover shortfalls moins- compensation values

3. Other assignments

After compensation for losses, the reserve and fund balance of proceeds of PCs is intended:

- To the appropriations for the Structural Funds,
- The financing of the functioning of the European Union,
- And other appointments made by the Council of Ministers.

### **Article 24.**

These different government departments listed in paragraphs 2 and 3 of Article 23 above shall be fixed annually by acts of the Council of Ministers.

## **Chapter V. Control and Processing of Disputes**

### **Article 25.**

The Rules and Competencies Defined In Each Member State Control and Treatment of the Issue of the Duties and Taxes of State Shall Also Apply to Operations. For purposes of payment and collection of PCs. the product litigation as regards PCs, excluding the amount of PCs, is reserved for national administrations.

### **Article 26.**

The Commission shall have a right to examine all operations carried out by the national authorities under the PCs.

It shall by overlap with the books of customs and those of the Treasury in:

- The evolution of the tax base,
- The amount of duty, liquidated
- The situation of recovery,
- Cash payments or transfers of revenues in the appropriate account and

General of the overall level of compliance with the rules of PCs.

### **Article 27.**

Each year the Commission shall submit to the higher courts of the Union, a comprehensive report on the implementation of the mechanism and propose, where appropriate, all adjustments as may be required by it or required by one or more member States.

## **Title VI. Customs Procedures Governing the Movement of Goods Within the Union**

### **Chapter I. CERTIFICATES OF ORIGIN**

#### **Article 28.**

It shall be used for the purposes of intra-community trade of Certificates of Origin harmonized.

A decision of the Commission shall determine the form and content of such documents.

For consumption in a Member State, export or re-export to a State Member of the products which are the subject of intra-Community trade, certificates of origin used are classified in order to be able to distinguish without the risk of error, the following categories of products traded:

- a) The raw products and the products of traditional handicrafts;
- b) The authorised industrial products originating in the community preferential tax scheme;
- c) The unauthorized industrial products originating in the TPC originating or manufactured in States Members.

## **Chapter II. GENERAL PROCEDURES CONCERNING THE EXPORT AND IMPORT BY AND INTO THE MEMBER STATES OF PRODUCTS COVERED BY COMMUNITY EXCHANGES**

### **Article 29.**

The export or re-export to a State Member of the products referred to in article 28 above requires the submission by the exporter to the Customs Office concerned, of the Declaration of the appropriate model established in several copies of which is provided to the following destinations:

- One copy shall accompany the goods to the point of departure;
- The other accompanying the goods at destination.

The rationale for export, registering and controlling the export declaration, possibly the collection of exit and liquidation shall be carried out in accordance with the rules in force in each Member State.

### **Article 30.**

Imports into a Member State with a view to their release for consumption of products referred to in article 28 above requires the submission to the customs authority of the Declaration of the appropriate model.

After verification by relevant parts of the customs authority concerned, a copy of the declaration accompanied by a certificate of origin shall be forwarded to the Commission of WAEMU, not later than two months following the reference month.

## **Chapter III. THE RULES GOVERNING INFRINGEMENTS**

### **Article 31.**

Any infringement of this regulation are identified and addressed as in the area of customs.

Constitute offences, including:

- The declaration of the type used exclusively for industrial products for authorised the TPC for

Importation or exportation of products in Member States which do not benefit from the preferential arrangements or products originating in third countries;

- The lack of marking or labelling fraudulent of industrial products originating in the

Third countries or manufactured in the member States but not authorised to TPC;

- The use of false certificates of origin in order to qualify for a preferential tax on

Products are eligible for this scheme.

## **Title VII. COOPERATION IN THE FIELD OF STATISTICS**

### **Chapter I. Harmonisation of Tariff Nomenclatures**

#### **Article 32.**

Member States shall adopt pursuant to article 60 of the Treaty establishing the UEMOA a unified customs and statistical nomenclature which will be conducted in a timely manner of any decision of the Council of Ministers.

Any modification of the customs and statistical nomenclature shall be decided by the Council of Ministers.

## **Chapter II. HARMONISATION OF MODEL DECLARATIONS**

### **Article 33.**

In order to ensure harmonization as a homogeneous and accurate as possible of the external trade statistics of member States, models of customs declaration, which are also used in compiling statistics are set as regards trade between member States that trade between member States and third countries.

As regards trade between member States, such harmonisation will focus on the customs and statistical information to be contained in those statements, which shall be the subject of a decision of the Commission.

For the exchange of member countries, harmonisation with third countries will be sought through import declarations of release for consumption and export.

## **Chapter III. The Role of the Commission In the Field of Customs and Statistical Cooperation**

### **Article 34.**

The Commission will ensure :

- the compilation of statistics on trade between Member States and the calculation of depreciation ;
- Work towards the harmonization of the texts governing the compilation of external trade statistics of Member States;
- to carry out studies to harmonize the concepts, standards, nomenclature and methodology used in the compilation of Member States' statistics, agricultural statistics, transport statistics, livestock statistics, fisheries statistics, etc;
- to collect and compile all statistics necessary for the functioning of the Commission's services.

### **Article 35.**

In order to promote the development of trade in goods and services of the Member States, the Commission shall be responsible to seek to study and propose to the Council of Ministers all measures and actions to promote better knowledge of the production of Member States and all services, both within the Union and to third countries.

For the purposes of this Act, shall be regarded as benefits services normally provided for remuneration, in respect of activities of an industrial, commercial and craft.

### **Article 36.**

With a view to the achievement of the objective set out in article 35 above, the Commission is a mandate to study and propose:

- All measures concerning harmonisation standardization, packaging, control

If any sanitary and phytosanitary and product quality control;

- All measures to improve the conditions of transport and marketing,

Transit of exportable products;

- All promotional measures likely to improve knowledge and dissemination

Products of the Member States within the Union;

- In collaboration with the competent authorities of the member States of any joint actions

Promotion of their production on third-country markets.

### **Article 37.**

Where necessary, the member States of the union may have recourse to the safeguard clause, as provided for in article 86 of the Treaty Establishing the Economic and Monetary Union.

### **Article 38.**

This Act, which will be annexed to the Treaty of the Union shall enter into force on 1 July 1996.

In witness whereof have affixed their signatures to this note on 10 May 1996 for the Republic of Benin for the Republic of Mali H.E. Mathieu Kérékou. e. Alpha Oumar Konaré

The President of the Republic

For Burkina Faso for the Republic of Niger

H.E. Mr. Blaise Compaoré H.E. Colonel Ibrahim Mainassara Bare

President of Burkina Faso President of the National Salvation Council Head of State

For the Republic of Côte d'Ivoire For the Republic of Senegal, H.E. Henri Konan Bédié H.E. President Abdou Diouf of the President of the Republic

For the Republic of Togo H.E. President Gnassingbé Eyadéma of the Togolese Republic