PROTOCOL RELATING TO FREE MOVEMENT OF PERSONS, RESIDENCE AND ESTABLISHMENT

THE HIGH CONTRACTING PARTIES

RECALLING that sub-paragraph (d) of paragraph 2 of Article 2 of the Treaty of the Economic Community of West African States calls on Member States to ensure by stages the abolition of the obstacles to free movement of persons, services and capital;

RECALLING also that paragraph 1 of Article 27 of the Treaty of the Economic Community of West African States confers the status of Community citizenship on the citizens of Member States, and also enjoins Member States to abolish all obstacles to freedom of movement and residence within the Community;

RECALLING further that paragraph 2 of Article 27 of the Treaty of the Economic Community of West African States further calls on Member States to exempt Community citizens from holding visitors visa and residence permits and allow them to work and undertake commercial and industrial activities within their territories:

CONVINCED of the need to spell out in this protocol the various stages to be undergone to accomplish complete freedom of movement as envisaged by subparagraph (d) of paragraph 2 of Article 27 of the Treaty of the Economic Community of West African States;

HAVE AGREED AS FOLLOWS:

Part 1. Definitions

Article 1.

In this Protocol:

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

"Council of Ministers" means the Council of Ministers established by Article 6 of the Treaty of the Economic Community of West African States;

"Executive Secretary" means the Executive Secretary of the Economic Community of West African States;

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

"Member State" or "Member States" means a Member State or Member States of the Economic Community of West African States;

"A citizen of the Community" means a citizen of any Member State;

"A valid travel document" means a passport or any other valid travel document establishing the identity of the holder with his photograph, issued by or on behalf of the Member State of which he is a citizen and on which endorsement by immigration and emigration authorities may be made. A valid travel document shall also include a laissez-passer issued by the Community to its officials establishing the identity of the holder.

Part II. General Principles on Movement of Persons, Residence and Establishment

Article 2.

1. The Community citizens have the right to enter, reside and establish in the territory of Member States.

2. The right of entry, residence and establishment referred to in paragraph 1 above shall be progressively established in the course of a maximum transitional period of fifteen (15) years from the definitive entry into force of this Protocol by abolishing all other obstacles to free movement of persons and the right of residence and establishment.

3. The right of entry, residence and establishment which shall be established in the course of a transitional period shall be accomplished in three phases, namely:

Phase I - Right of Entry and Abolition of Visa

Phase II - Right of Residence

Phase III - Right of Establishment

Upon the expiration of a maximum period of five (5) years from the definitive entry into force of this Protocol, the Commission, based upon the experience gained from the implementation of the first phase as set out in Article 3 below, shall make proposals to the Council of Ministers for further liberalisation towards the subsequent phases of freedom of residence and establishment of persons within the Community and phases shall be dealt with in subsequent Annexes to this Protocol.

Part III. Implementation of the First Phase: Abolition of Visas and Entry Permit

Article 3.

1. Any citizen of the Community who wishes to enter the territory of any other Member State shall be required to possess a valid travel document and an international health certificate.

2. A citizen of the Community visiting any Member State for a period not exceeding ninety (90) days shall enter the territory of that Member State

Through the official entry point free of visa requirements. Such citizen shall, however, be required to obtain permission for an extension of stay from the appropriate authority if after such entry that citizen has cause to stay for more than ninety (90) days.

Article 4.

Notwithstanding the provisions of Article 3 above, Member States shall reserve the right to refuse admission into their territory to any Community citizen who comes within the category of inadmissible immigrant under its laws.

Part IV. Movement of Vehicles for the Transportation of Persons

Article 5.

In order to facilitate the movement of persons transported in private or commercial vehicles the following shall apply:

1. Private Vehicles

A private vehicle registered in the territory of a Member State may enter the territory of another Member State and remain there for a period not exceeding ninety (90) days upon presentation of the documents listed hereunder to the competent authority of that Member State:

i. Valid driving licence

ii. Matriculation Certificate (Ownership Card) or Log Book.

iii. Insurance Policy recognised by Member States

Iv. International customs documents recognised within the Community.

2. Commercial Vehicles

A commercial vehicle registered in the territory of a Member State and carrying passengers may enter the territory of another Member State and remain there for a period not exceeding fifteen (15) days upon presentation of the documents listed hereunder to the competent authority of that Member State:

i. Valid driving licence

ii. Matriculation Certificate (Ownership Card) or Log Book.

iii. Insurance Policy recognised by Member States

Iv. International customs documents recognised within the Community.

During the period of fifteen (15) days the commercial motor vehicle shall however not engage in any commercial activities within the territory of the Member State entered.

Part V. Miscellaneous Provisions

Article 6.

Each Member State shall deposit at the Executive Secretariat specimen of travel documents defined in Article 1 in the present Protocol with a view to communicating them to all Member States.

Article 7.

Any dispute that may arise among Member States regarding the interpretation or application of this Protocol shall be amicably settled by direct agreement. In the event of failure to settle such disputes, the matter may be referred to the Tribunal of the Community by a party to such disputes and the decision of the Tribunal shall be final.

Article 8.

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

2. Any such proposals shall be submitted to the Executive Secretary who shall communicate them to other Member States not later than thirty (30) days after the receipt of such proposal. Amendments or revisions shall be considered by the Council of Ministers after Members States have been given one month's notice thereof.

Article 9.

Member States undertake to co-operate among themselves by exchanging information on such matters that are likely to affect the effective implementation of this Protocol. Such information shall also be sent to the Executive Secretary for necessary action in accordance with the provisions of the Treaty.

Article 10.

The provisions of this Protocol shall not operate to the prejudice of citizens of the Community who are already in residence and established in a Member State provided they comply with the laws in general and in particular the immigration laws of that Member State.

Article 11.

1. A decision to expel any citizen of the Community from the territory of a Member State shall be notified to the citizen concerned as well as the government of which he is a citizen and the Executive Secretary of ECOWAS.

2. The expenses incurred in the expulsion of a citizen shall be borne by the Member State which expels him.

3. In case of expulsion, the security of the citizen concerned as well as that of his family shall be guaranteed and his property protected and returned to him without prejudice to his obligations to third party.

4. In case of repatriation of a citizen of the Community from the territory of a Member State, that Member State shall notify

the government of the State of origin of the citizen and the Executive Secretary.

5. The cost of repatriation of a citizen of the Community from the territory of a Member State shall be borne by the citizen himself or in the event that he is unable to do so by the country of which he is a citizen.

Article 12.

The provisions of the present Protocol shall not affect more favourable provisions contained in agreements that have already been concluded between two or among several Member States.

Part VI. Final Provisions: Deposit and Entry Into Force

Article 13.

1. This Protocol shall enter into force provisionally upon signature by Heads of State and Government of Member States and definitively upon ratification by at least seven signatory States in accordance with the constitutional procedures applicable for each signatory State.

2. The Protocol and all the instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies of this Protocol to all Member States and notify them of the dates of deposit of the instruments of ratification and shall register this Protocol with the Organisation of African Unity, the United Nations and such Organisations as the Council shall determine.

3. This Protocol shall be annexed to and shall form an integral part of the Treaty.

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

DONE AT DAKAR, THIS 29 th DAY OF MAY, 1979 IN A SINGLE ORIGINAL INTHE ENGLISH AND FRENCH LANGUAGES, BOTH TEXTS BEING EQUALLY AUTHENTIC