

# **Stepping stone Economic Partnership Agreement between Côte d'Ivoire, of the one part, and the European Community and its Member States, of the other part**

THE REPUBLIC OF CÔTE D'IVOIRE, of the one part, and

THE KINGDOM OF BELGIUM,

THE REPUBLIC OF BULGARIA,

THE CZECH REPUBLIC,

THE KINGDOM OF DENMARK,

THE FEDERAL REPUBLIC OF GERMANY,

THE REPUBLIC OF ESTONIA,

IRELAND,

THE HELLENIC REPUBLIC,

THE KINGDOM OF SPAIN,

THE FRENCH REPUBLIC,

THE ITALIAN REPUBLIC,

THE REPUBLIC OF CYPRUS,

THE REPUBLIC OF LATVIA,

THE REPUBLIC OF LITHUANIA,

THE GRAND DUCHY OF LUXEMBURG,

THE REPUBLIC OF HUNGARY,

MALTA,

THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

ROMANIA,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, and

THE EUROPEAN COMMUNITY, of the other part,

## PREAMBLE

HAVING regard to the Partnership Agreement between the Members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 and revised in Luxembourg on 25 June 2005, hereinafter the "Cotonou Agreement";

HAVING regard to the expiry of the transitional preferential trade regime of the Cotonou Agreement on 31 December 2007;

HAVING regard to the possible unfavourable impact of the expiry of these transitional trade preferences provided for under the Cotonou Agreement on trade between the two Parties if they fail to replace it with an agreement which is compatible with the rules of the World Trade Organisation by 1 January 2008;

RECOGNISING therefore the need to establish a stepping stone Economic Partnership Agreement in order to safeguard the economic and trade interests of the Parties;

WHEREAS the Parties wish to strengthen their economic and trade relations and establish lasting relations based on partnership and cooperation;

WHEREAS the Parties are committed to the principles and rules governing international trade, in particular the rights and obligations arising from the provisions of the General Agreement on Trade and Tariffs of 1994 (GATT 1994) and the other multilateral agreements annexed to the Agreement establishing the World Trade Organisation (the Agreement establishing the WTO), and to applying them in a transparent, non-discriminatory manner;

REAFFIRMING their commitment to respect for human rights, democratic principles and the rule of law, which constitute the main elements of the Cotonou Agreement, and to good governance, which is fundamental to the Cotonou Agreement;

WHEREAS the economic, cultural and social development of West African States must be promoted and expedited with a view to contributing to peace and security and to promoting a stable and democratic political environment;

WHEREAS the Parties attach importance to the development objectives agreed at the international level and to the United Nations Millennium Development Goals;

REAFFIRMING their commitment to working together towards the achievement of the Cotonou Agreement objectives, in particular the eradication of poverty, sustainable development and the progressive integration of the African, Caribbean and Pacific (ACP) States into the world economy;

WISHING to create new opportunities for employment, attract investment and improve living conditions on the territory of the Parties, while promoting sustainable development;

WHEREAS existing traditional links are important, in particular the close historical, political and economic links between the European Community, its Member States and the West African States;

RECOGNISING the difference in levels of economic and social development which exists between the West African States and the European Community;

CONVINCED that this Agreement will create a new and more favourable climate for their relations in the areas of economic governance, trade and investment, and open up new opportunities for growth and development;

RECOGNISING the importance of cooperation on development for the implementation of this Agreement;

PENDING the signing of a comprehensive Economic Partnership Agreement between West Africa and the European Union with a view to the sustained and harmonious development and integration of the West African Region;

REAFFIRMING their commitment to supporting the regional integration process in West Africa, and in particular to promoting regional economic integration as an essential instrument for its integration in the world economy, which helps it to meet the challenges of globalisation and achieve its economic and social development objectives,

HAVE DECIDED AS FOLLOWS:

## **Title I. Objectives**

### **Article 1. Stepping Stone Agreement**

This Agreement creates an initial framework for an Economic Partnership Agreement (EPA).

## **Article 2. Objectives**

The objectives of this Agreement are:

- (a) to allow the Ivorian Party to benefit from the enhanced market access offered by the EC Party in the context of the EPA negotiations, and thereby to avoid disrupting trade between Côte d'Ivoire and the European Community on the expiry of the transitional trade regime of the Cotonou Agreement on 31 December 2007, pending the conclusion of a comprehensive EPA;
- (b) to lay the foundations for the negotiation of an EPA which will help to reduce poverty, promote regional integration, economic cooperation and good governance in West Africa and to improve West Africa's capacities as regards commercial policy and trade-related issues;
- (c) to promote the harmonious and progressive integration of West Africa into the world economy, in accordance with its political choices and development priorities;
- (d) to strengthen the existing relations between the Parties on the basis of solidarity and mutual interest;
- (e) to create an agreement which is compatible with Article XXIV of GATT 1994.

## **Title II. Partnership for Development**

### **Article 3. Development Cooperation In the Framework of this Agreement**

The Parties undertake to cooperate in order to implement this Agreement and to help support the Ivorian Party in the achievement of the EPA objectives. This cooperation shall take financial and non-financial forms.

### **Article 4. Development Finance Cooperation In the Framework of this Agreement**

1. The provisions of the Cotonou Agreement concerning economic and regional cooperation and integration shall be implemented with a view to maximising the benefits of this Agreement.
2. European Community financing (1) pertaining to development cooperation between the Ivorian Party and the European Community in support of the implementation of this Agreement shall be provided in accordance with the appropriate rules and procedures set out in the Cotonou Agreement, in particular the programming procedures of the European Development Fund (EDF), and using the relevant instruments financed by the General Budget of the European Union. In this context, supporting the implementation of this Agreement shall be one of the priorities.
3. The Member States of the European Community collectively undertake to support, through their respective development policies and instruments, development actions to encourage regional economic cooperation and the implementation of this Agreement both at national and regional levels, in accordance with the principles of efficiency and complementarity of aid.
4. The Parties shall cooperate to facilitate the participation of other donors willing to support the efforts of the Ivorian Party to achieve the objectives of this Agreement.
5. The Parties acknowledge the usefulness of regional financing mechanisms such as a regional EPA fund established by and for the region in order to channel financing at regional and national level and effectively implement the measures accompanying this Agreement. The European Community undertakes to channel its support either through the financing mechanisms of the region or through those chosen by the countries signatory to this Agreement in accordance with the rules and procedures set out in the Cotonou Agreement and in compliance with the aid effectiveness principle of the Paris Declaration, with a view to ensuring simplified, efficient and rapid implementation.
6. For the implementation of the provisions of paragraphs 1 to 5 of this Agreement, the Parties undertake to cooperate using financial and non-financial means in the areas defined in Articles 5, 6, 7 and 8.

(1) Not including financing provided by the individual Member States.

## **Article 5. Business Environment**

The Parties consider that the business environment is an essential factor in economic development and that, consequently, the provisions of this Agreement shall be aimed at contributing to this common objective. Côte d'Ivoire, which is a signatory to the Treaty establishing the Organisation for the Harmonisation of Business Law in Africa (OHADA), reaffirms its commitment to applying the provisions of this Treaty.

In accordance with the provisions of Article 4, the Parties undertake to work unremittingly on improving the business environment.

## **Article 6. Support for Implementation of the Rules**

The Parties agree that the setting of trade rules, which include provisions on cooperation detailed in the various chapters of this Agreement, is fundamental to achieving the objectives of this Agreement. Cooperation in this field shall be organised in accordance with the arrangements specified in Article 4.

## **Article 7. Strengthening and Modernising Productive Sectors**

In relation to the implementation of this Agreement, the Parties affirm their wish to upgrade the competitiveness of the productive sectors of Côte d'Ivoire affected by this Agreement. The Parties agree to work together using cooperation instruments and in accordance with the provisions of Article 4, and to support:

- the repositioning of the private sector vis-à-vis the new economic opportunities created by this Agreement,
- the definition and implementation of modernisation strategies,
- the improvement of the private sector environment and of the business climate referred to in Articles 5 and 6,
- the promotion of the partnership between the Parties' private sectors.

## **Article 8. Cooperation on Fiscal Adjustment**

1. The Parties acknowledge the challenges which the elimination or substantial reduction of customs duties provided for in this Agreement may pose for Côte d'Ivoire, and they agree to establish dialogue and cooperation in this field.

2. In the light of the tariff dismantling schedule adopted as part of this Agreement, the Parties agree to establish in-depth dialogue on fiscal adjustment measures in order to ultimately ensure a balanced budget position for Côte d'Ivoire.

3. The Parties agree to cooperate as regards the provisions of Article 4, in particular through the facilitation of assistance measures in the following fields:

- (a) a significant contribution to absorbing net fiscal impact in full complementarity with fiscal reforms;
- (b) support for fiscal reform accompanying dialogue in this field.

## **Article 9. Cooperation In International Fora**

The Parties shall endeavour to cooperate in all international fora where issues relevant to this partnership are discussed.

## **Title III. Trade Regime for Goods**

### **Chapter 1. Customs Duties and Non-tariff Measures**

#### **Article 10. Customs Duties**

1. The term "customs duties" refers to the duties or charges of any kind imposed on or in connection with the importation or exportation of goods, as provided for in the WTO rules. This provision shall not be interpreted as applying to internal duties or charges or duties or charges having equivalent effect at the moment of leaving the territory.

2. For each product, the basic customs duty to which the successive reductions apply shall be that specified in the tariff dismantling schedules of each Party.

#### **Article 11. Fees and other Charges**

The Parties reaffirm their commitment to complying with the provisions of Article VIII of GATT 1994.

## **Article 12. Customs Duties on Products Originating In Côte D'ivoire**

Products originating in Côte d'Ivoire shall be imported into the EC free of customs duties, except for the products indicated, and under the conditions set out in Annex 1.

## **Article 13. Customs Duties on Products Originating In the EC**

Customs duties on products originating in the EC and exported to Côte d'Ivoire shall be reduced or eliminated in accordance with the tariff dismantling schedule in Annex 2.

## **Article 14. Rules of Origin**

1. Within the meaning of this Chapter, "originating" status shall be conferred on goods meeting the rules of origin in force on 1 January 2008 on the territory of the Parties.

2. The Parties shall establish a reciprocal common regime governing the rules of origin by 31 July 2008 at the latest, based on the rules of origin set out in the Cotonou Agreement and providing for their simplification, in view of the Ivorian Party's development objectives. The new regime shall be part of this Agreement by decision of the EPA Committee. Failing agreement between the Parties, the applicable regime shall be the most favourable regime to Côte d'Ivoire of either the current regime adopted by the EC Party or the improved rules established under the Cotonou Agreement.

3. At the latest three years after the date of entry into force of this Agreement, the Parties shall revise the provisions in force governing the rules of origin with the common aim of simplifying the concepts and methods used to determine origin in the light of the development objectives of Côte d'Ivoire and in line with those of West Africa. In the context of this revision, the Parties shall take account of technological development, production procedures and all other factors, including current reforms of the rules of origin which could require consequent amendments to the negotiated reciprocal regime. All amendments or replacements shall be made pursuant to a decision by the EPA Committee.

## **Article 15. Standstill**

1. No new customs duties on imports shall be introduced in trade between the Parties, nor shall those currently applied in trade between the Parties be increased from the date of entry into force of this Agreement.

2. Notwithstanding paragraph 1, and as part of the finalisation of the common external tariff of the Economic Community Of West African States (ECOWAS), Côte d'Ivoire may until 31 December 2011 revise its basic customs duties on goods originating in the European Community insofar as the general impact of these duties is no higher than that resulting from the duties specified in Annex 2. The EPA Committee shall amend Annex 2 accordingly.

## **Article 16. Duties, Taxes and other Fees and Charges on Exports**

1. No new customs duties on exports or charges with equivalent effect shall be introduced, nor shall those currently applied in trade between the Parties be increased from the date of entry into force of this Agreement.

2. In exceptional circumstances, if the Ivorian Party can justify specific needs for income, protection for infant industry or environmental protection, it may, on a temporary basis and after consulting the EC Party, introduce customs duties on exports or charges with equivalent effect on a limited number of traditional goods or increase the incidence of those which already exist.

3. The Parties agree to review the provisions of this Article in the framework of the EPA Committee at the latest three years after entry into force of this Agreement, taking full account of their impact on the development and diversification of the economy of the Ivorian Party.

## **Article 17. More Favourable Treatment Resulting from Free-trade Agreements**

1. For the fields covered by this Chapter, the EC Party shall grant the Ivorian Party any more favourable treatment applicable as a result of the European Community becoming party to a free-trade agreement with third parties after signing this Agreement.

2. For the fields covered by this Chapter, the Ivorian Party shall grant the EC Party any more favourable treatment applicable as a result of Côte d'Ivoire entering into a free-trade agreement with a major trade partner after signing this Agreement.
3. If the Ivorian Party obtains from a major trade partner substantially more favourable treatment than that offered by the EC Party, the Parties shall consult each other and decide together on the implementation of the provisions in paragraph 2.
4. The provisions of this Chapter cannot be interpreted as requiring the Parties to reciprocally grant each other preferential treatment which would be applicable owing to one of the Parties being signatory to a free-trade agreement with a third party on the date on which this Agreement enters into force.
5. In this Article, "free-trade agreement" refers to an agreement which substantially liberalises trade and substantially eliminates discrimination between the parties through the repeal of existing discriminatory measures and/or the prohibition of new discriminatory measures and measures which are more discriminatory in nature, either on the entry into force of this Agreement or on the basis of a reasonable timetable.
6. In this Article, "major trade partner" refers to any developed country, or any country with a share in world trade greater than 1 per cent in the year preceding the entry into force of the free-trade agreement mentioned in paragraph 2, or any group of countries acting individually, collectively or through a free-trade agreement with a share in world trade greater than 1,5 per cent in the year preceding the entry into force of the free-trade agreement mentioned in paragraph 2 (2).

(2) For this calculation, the official WTO figures on the leading exporters in world trade will be used (excluding intra-EU trade)

## **Article 18. Prohibition of Quantitative Restrictions**

Notwithstanding the provisions of Articles 23, 24 and 25, on the entry into force of this Agreement, all prohibitions or restrictions on importation or exportation affecting trade between the Parties shall be eliminated, with the exception of the customs duties, taxes, fees and other charges referred to in Article 11, irrespective of whether they are implemented through quotas, import or export licensing or other measures. No new measures shall be introduced.

## **Article 19. National Treatment of Internal Taxation and Regulation**

1. Products imported from the other Party shall not be directly or indirectly subject to internal taxation or other internal charges of any type surpassing those which are directly or indirectly applicable to similar domestic products. Furthermore, both Parties shall refrain from applying any other form of taxation or other internal charges with the aim of providing protection for domestic production.
2. Products imported from the other Party shall benefit from treatment which is no less favourable than the treatment given to similar domestic products in respect of all laws, regulations and requirements applicable to their sale, offering for sale, purchase, transportation, distribution or use on the national market. The provisions of this paragraph shall not prevent the application of tariffs for differentiated internal transportation based exclusively on the fuel-efficient use of transport and not on the origin of the product.
3. Notwithstanding the provisions on the rules of origin, each Party shall refrain from establishing or maintaining any internal regulations relating to the mixing, processing or use of products according to specified quantities or proportions which would require, directly or indirectly, that any specified amount or proportion of the product subject to the regulation in question be supplied from internal sources. Furthermore, each Party shall refrain from applying any other form of domestic quantitative regulation with the aim of providing protection for domestic production.
4. The provisions of this Article shall not apply to the laws, regulations, procedures or practices relating to public procurement.
5. The provisions of this Article shall be without prejudice to Chapter 2 concerning trade defence instruments.
6. For matters relating to the payment of subsidies to national producers, the Parties shall refer to the WTO.

## **Article 20. Food Security**

Where the implementation of this Agreement leads to difficulties regarding the availability of, or access to, foodstuffs necessary to ensure food security, and where this situation gives rise to or is likely to give rise to major difficulties for Côte d'Ivoire, the latter may take appropriate measures in accordance with the procedures laid down in Article 25.

## **Article 21. Special Provisions on Administrative Cooperation**

1. The Parties agree that administrative cooperation is essential to the implementation and control of the preferential treatment granted in this Chapter and underline their commitment to combating irregularities and fraud as regards customs and related fields.
2. When a Party obtains proof from objective information of a lack of administrative cooperation and/or irregularities or fraud, this Party may temporarily suspend the preferential treatment granted to the product(s) concerned in accordance with this Article.
3. For the purposes of this Article, a lack of administrative cooperation shall include the following:
  - (a) repeated failure to comply with the obligation to verify the originating status of the product(s) concerned;
  - (b) repeated refusal to conduct a subsequent check of proof of origin and communicate the results, or undue delay in doing so;
  - (c) repeated refusal to grant authorisation for a cooperation mission to check the authenticity of documents or the accuracy of information of relevance to the preferential treatment in question, or undue delay in doing so.
4. The application of a temporary suspension shall be subject to the following conditions:
  - (a) A Party which obtains proof from objective information of a lack of administrative cooperation and/or irregularities or fraud must notify the EPA Committee without undue delay that it has obtained the proof and the objective information, and must consult with the EPA Committee to find a solution acceptable to both Parties, drawing on all relevant information and objective evidence;
  - (b) When the Parties have entered into consultation with the EPA Committee, as provided for above, and have been unable to agree on an acceptable solution in the three months following notification, the Party concerned can temporarily suspend the preferential treatment granted to the product(s) concerned. The EPA Committee must be notified of the temporary suspension without undue delay;
  - (c) Temporary suspensions under this Article shall be limited to those necessary to protect the financial interests of the Party concerned. They shall not exceed a renewable period of six months. The EPA Committee shall be notified of temporary suspensions immediately after their adoption. They shall be subject to periodic consultations within the EPA Committee, in particular with a view to repealing them once the conditions for application no longer exist.
5. At the same time as the notification to the EPA Committee specified in paragraph 4(a), the Party concerned shall publish a notice for importers in its Official Journal. This notice for importers shall indicate that, for the product concerned, and on the basis of objective information, proof has been obtained of a lack of administrative cooperation and/or irregularities or fraud.

## **Article 22. Management of Administrative Errors**

In the event of an error on the part of the competent authorities in the management of the preferential export systems, and in particular in the application of the provisions concerning the definition of the term "originating products" and the administrative cooperation methods, where this error has consequences on imports and exports, the Party suffering these consequences can ask the EPA Committee to examine the possibilities of adopting all appropriate measures in the aim of remedying the situation.

## **Chapter 2. Trade Defence Instruments**

### **Article 23. Anti-dumping and Countervailing Measures**

1. Subject to the provisions of this Article, the Agreement does not prevent the EC Party or Côte d'Ivoire from adopting anti-dumping or countervailing measures in accordance with the relevant WTO agreements. For the purposes of this Article, origin shall be determined in accordance with the non-preferential rules of origin of the Parties.
2. Before imposing definitive anti-dumping or countervailing measures on goods, the Parties shall consider the possibility of constructive solutions, such as those provided for in the relevant WTO agreements. In particular, they may hold appropriate consultations to this end.
3. The EC Party shall notify Côte d'Ivoire of the receipt of a sufficiently-documented complaint before opening an inquiry.

4. The provisions of this Article shall be applicable to all investigations initiated after this Agreement enters into force.

5. The provisions of this Article shall not be subject to the dispute settlement provisions of this Agreement.

## **Article 24. Multilateral Safeguard Measures**

1. Subject to the provisions of this Article, this Agreement does not prevent Côte d'Ivoire and the EC Party from adopting measures in accordance with Article XIX of GATT 1994, the Agreement on Safeguards or Article 5 of the WTO Agreement on Agriculture. For the purposes of this Article, origin is determined in accordance with the non-preferential rules of origin of the Parties.

2. Notwithstanding paragraph 1, in the light of the general development objectives of this Agreement and the small scale of the Côte d'Ivoire economy, the EC Party shall exclude imports from Côte d'Ivoire from all measures taken pursuant to Article XIX of GATT 1994, the Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture.

3. The provisions of paragraph 2 shall apply for a period of five years, beginning with the date of entry into force of this Agreement. At the latest 120 days before the end of this period, the EPA Committee shall re-examine the implementation of these provisions in the light of the development needs of Côte d'Ivoire, in order to determine whether their period of application should be extended.

4. The provisions of paragraph 1 shall not be subject to the dispute settlement mechanisms of this Agreement.

## **Article 25. Bilateral Safeguard Measures**

1. After examining the alternative solutions, a Party may take safeguard measures of limited duration which derogate from the provisions of Articles 12 and 13, under the conditions of, and in accordance with, the procedures laid down by this Article.

2. The safeguard measures referred to in paragraph 1 may be taken where a product originating in one Party is imported into the territory of the other Party in such increased quantities and under such conditions as to cause or threaten to cause:

(a) serious injury to the domestic industry of similar or directly competitive products in the territory of the importing Party;

(b) disruptions in a sector of the economy, particularly where these disruptions produce major social problems or difficulties which could bring about serious deterioration in the economic situation of the importing Party; or

(c) disruptions in the markets for similar or directly competitive agricultural products (3) or of the mechanisms regulating these markets in the territory of the importing Party.

3. The safeguard measures referred to in this Article shall not exceed that which is strictly necessary to prevent or remedy serious injury or disruptions as defined in paragraphs 2, 4 and 5. These safeguard measures of the importing Party may consist only of one or more of the following:

(a) the suspension of any further reduction in the customs duty on imports applicable for the product concerned, as provided for by this Agreement;

(b) an increase in the customs duty on the product concerned up to a level which does not exceed the customs duty applied to other WTO Members, and

(c) the introduction of tariff quotas on the product concerned.

4. Notwithstanding paragraphs 1 and 2, when a product originating in Côte d'Ivoire is imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations described in paragraphs 2(a), (b) and (c) in one or more outermost regions of the EC Party, the EC Party may take surveillance or safeguard measures, as provided for in paragraph 3, limited to the region(s) concerned and in accordance with the procedures defined in paragraphs 6 to 9.

5. (a) When a product originating in the EC Party is imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations described in paragraphs 2(a), (b) and (c), Côte d'Ivoire may take surveillance or safeguard measures limited to its territory in accordance with the procedures defined in paragraphs 6 to 9;

(b) Notwithstanding paragraphs 1 and 2, Côte d'Ivoire may take safeguard measures as provided for in paragraph 3 when a product originating in the EC Party is imported in such increased quantities and under such conditions as to cause or threaten to cause disturbances to an infant industry producing similar or directly competitive products.



Such provision shall be applicable only for a period of ten years from the date of entry into force of this Agreement. However, this period may be extended subject to an agreement between the Parties when, despite the development potential of the industry and the efforts actually made, this objective has not been achieved owing in particular to the world economic situation or to serious problems affecting Côte d'Ivoire.

The measures must be taken in compliance with the provisions of paragraphs 6 to 9.

6. (a) The safeguard measures referred to in this Article shall be maintained only for the period necessary to prevent or resolve serious damage or disruptions such as those described in paragraphs 2, 4 and 5;

(b) The safeguard measures referred to in this Article shall be applied for a period not exceeding two years. Where the circumstances warranting the imposition of safeguard measures continue to exist, such measures may be extended for a further period of no more than two years. Where Côte d'Ivoire applies a safeguard measure, or where the EC Party applies a measure limited to the territory of one or more of its outermost regions, this measure may nevertheless be applied for a period of no more than four years and, when the circumstances justifying the imposition of safeguard measures continue to exist, be extended for a further four-year period;

(c) The safeguard measures referred to in this Article which exceed one year shall be accompanied by clear evidence of a progressive move towards eliminating the causes of the damage and disruptions and the measures at the latest by the end of the established period;

(d) Except in exceptional circumstances subject to the assessment of the EPA Committee, no safeguard measures referred to in this Article shall be applied to a product which has previously been subject to such a measure for a period of at least one year from the date of expiry of this measure.

7. The following provisions shall apply for implementation of paragraphs 1 to 6:

(a) When a Party considers that one of the circumstances referred to in paragraphs 2, 4 and/or 5 exists, it shall immediately refer the matter to the EPA Committee;

(b) The EPA Committee can make any necessary recommendation to remedy the circumstances which have arisen. Where the EPA Committee has not made recommendations to remedy the circumstances, or where a satisfactory solution has not been found in the 30 days following notification to this Committee, the importing Party may adopt appropriate measures to remedy the circumstances, in accordance with this Article;

(c) Before taking a measure provided for in this Article or, in the cases referred to in paragraph 8, as soon as possible, the Party concerned shall communicate to the EPA Committee all information which can be used for a full examination of the situation with a view to finding an acceptable solution for the Parties;

(d) When selecting safeguard measures, priority must be given to those which help to efficiently and rapidly solve the problem, while causing the least possible disruption to the smooth functioning of this Agreement;

(e) All safeguard measures taken in accordance with this Article shall be notified immediately to the EPA Committee and shall be the subject of periodic consultations within that body, particularly with a view to establishing a timetable for their abolition as soon as circumstances permit.

8. Where exceptional circumstances require immediate action, the importing Party concerned, whether the EC Party or Côte d'Ivoire, as the case may be, may take the measures provided for in paragraphs 3, 4 and/or 5 on a provisional basis and without meeting the requirements of paragraph 7. Such action may be taken for a maximum period of 180 days where the measures are taken by the EC Party and 200 days when the measures are taken by Côte d'Ivoire, or when the measures of the EC Party are limited to one or more of its outermost regions. The duration of such provisional measures shall be counted as a part of the initial period or of any extension referred to in paragraph 6. When taking these provisional measures, the interests of all stakeholders must be taken into account. The importing party concerned shall inform the other Party and immediately refer the matter to the EPA Committee for examination.

9. If an importing party subjects imports of a product to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows liable to give rise to the problems referred to in this Article, it shall inform the EPA Committee without delay.

10. The WTO Agreement shall not be invoked to prevent a Party from adopting safeguard measures under this Article.

(3) For the purposes of this Article, agricultural products shall be those covered by Annex I to the WTO Agreement on Agriculture.

## **Article 26. Cooperation**

1. The Parties recognise the importance of cooperation on trade defence instruments.
2. The Parties agree to cooperate in accordance with Article 4, including through the facilitation of assistance measures, particularly in the following fields:
  - (a) the development of regulations and institutions to ensure trade defence;
  - (b) the development of capacity to use the trade defence instruments provided for in this Agreement.

## **Chapter 3. Customs Regime and Trade Facilitation**

### **Article 27. Objectives**

1. The Parties recognise the importance of customs issues and of facilitating trade in the evolving context of world trade. They agree to strengthen cooperation in this area with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the administrative authorities concerned, to fulfil the objectives relating to the effective control and facilitation of trade, and to help promote the development and regional integration of the signatory countries.
2. The Parties agree that the legitimate objectives of public policy, including those in relation to security and fraud prevention, shall not be compromised in any way.
3. The Parties undertake to ensure the free movement of the goods covered by this Agreement in their respective territories.

### **Article 28. Customs and Administrative Cooperation**

1. In order to ensure compliance with the provisions of this Title, and to respond effectively to the objectives set out in Article 27, the Parties shall:
  - (a) exchange information concerning customs legislation and procedures;
  - (b) develop joint initiatives relating to import, export and transit procedures and initiatives to offer an efficient service to the business community;
  - (c) cooperate on the automation of customs procedures and other trade procedures and, where appropriate, endeavour to establish common data exchange standards;
  - (d) establish wherever possible common positions in relation to customs in international organisations such as the WTO, the World Customs Organisation (WCO), the United Nations (UN) and the United Nations Conference on Trade and Development (UNCTAD);
  - (e) cooperate on the planning and implementation of technical assistance, in particular with a view to facilitating customs reforms and to facilitating trade in accordance with the provisions of the Agreement; and
  - (f) encourage cooperation between all the agencies concerned, both within the country and between countries.
2. Notwithstanding paragraph 1, the administrative authorities of the Parties shall provide mutual administrative assistance for customs matters, in accordance with the provisions of the Protocol on Mutual Administrative Assistance in Customs Matters.

### **Article 29. Customs Legislation and Procedures**

1. The Parties agree that their respective trade and customs legislation, provisions and procedures shall draw on international instruments and standards applicable in the fields of customs and trade, in particular the substantive elements of the International Convention on the Simplification and Harmonisation of Customs Procedures, concluded at Kyoto on 18 May 1973 and revised at Brussels on 26 June 1999 (the "revised Kyoto Convention"), the WCO Framework of Standards to Secure and Facilitate Global Trade, the WCO data set and the International Convention on the Harmonised Commodity Description and Coding System (HS).

The Parties shall ensure the free transit of goods through their territory on the most suitable transit route.

Any restrictions, controls or requirements must be justified by a legitimate public policy objective, and must be non-discriminatory, proportionate and applied in a uniform manner.

Without prejudice to legitimate customs checks, the Parties shall treat goods in transit to or from the territory of the other Party no less favourably than domestic goods, exports, imports and their movement.

The Parties shall establish transport regimes under customs control to allow the transit of goods exempt from the payment of customs duties and other charges, subject to the provision of appropriate guarantees.

The Parties shall endeavour to promote and implement regional transit regimes with the aim of reducing barriers to trade.

The Parties shall have recourse to the international standards and instruments relating to the transit of goods.

The Parties shall ensure the cooperation and coordination of all the relevant authorities in their territories in order to facilitate transit traffic and promote cross-border cooperation.

2. In order to improve working methods and ensure respect for the principles of non-discrimination, transparency, efficiency, integrity and accountability, the Parties shall:

(a) take the necessary measures to reduce, simplify and standardise the data and documents required by customs and other related authorities;

(b) simplify customs requirements and formalities wherever possible, in respect of the rapid release and clearance of goods;

(c) provide efficient, prompt and non-discriminatory procedures enabling the right of appeal against administrative actions, rulings and decisions by the customs authorities affecting imports, exports or goods in transit. These procedures shall be easily accessible to the applicants, including small and medium-sized enterprises, and the related costs shall be reasonable and proportionate to the costs incurred by lodging the appeal;

(d) ensure that the highest standards of integrity are maintained, through the application of measures reflecting the principles set out in the relevant international conventions and instruments in this field.

## **Article 30. Relations with the Business Community**

The Parties agree:

(a) to ensure that all the legislation, procedures, fees and charges and their justification are made publicly available, where possible by electronic means;

(b) on the need for consultation with trade representatives in due time and on a regular basis regarding legislative proposals and procedures relating to customs and trade issues. To this end, appropriate and regular mechanisms for consultation between the administrative authorities and the business community shall be established by each Party;

(c) that a sufficient period of time must pass between the publication and the entry into force of a new or amended law, procedure, right or charge; The Parties shall publish administrative information concerning in particular agency requirements, entry procedures, working hours and operational procedures of the customs authorities in ports and at border posts, and also on information contact points:

(d) to encourage cooperation between the operators and the competent administrative authorities through the use of non-arbitrary, publicly accessible procedures such as the protocols of agreement, based on those promulgated by the WCO;

(e) to ensure that their respective customs and related regimes and the requirements and procedures associated with them continue to meet the needs of the business community, are in line with best practices and remain as unrestrictive as possible for trade.

## **Article 31. Customs Value**

1. Article VII of GATT 1994 and the WTO Agreement on Implementation of Article VII of GATT 1994 shall govern the customs valuation rules applied to trade between the Parties.

2. The Parties shall cooperate with a view to taking a common approach to issues relating to customs valuation.

## **Article 32. Regional Integration**

The Parties agree to push forward customs reforms aimed at facilitating trade in the region of West Africa.

### **Article 33. Continuation of Customs and Trade Facilitation Negotiations**

As part of the negotiations on a global EPA, the Parties agree to continue the negotiations on this Chapter in order to complete it within a regional framework.

### **Article 34. Special Committee on Customs and Trade Facilitation**

Through the EPA Committee, the Parties shall establish a special committee on customs and trade facilitation, composed of representatives from both Parties. This committee shall report to the EPA Committee. It shall discuss all customs issues with a view to facilitating trade between the Parties and shall monitor the implementation and administration of this Chapter as well as the implementation of the rules of origin.

### **Article 35. Cooperation**

1. The Parties recognise the importance of cooperation on customs and trade facilitation for the implementation of this Agreement.

2. The Parties agree to cooperate pursuant to the provisions of Article 4, including through the facilitation of assistance measures, particularly in the following fields:

(a) the development of appropriate, simplified legislative and regulatory provisions;

(b) awareness-raising and information aimed at operators, including training for the staff concerned;

(c) strengthening the capacities of the customs authorities, and modernising and establishing links between them.

## **Chapter 4. Technical Barriers to Trade, Sanitary and Phytosanitary Measures**

### **Article 36. Multilateral Obligations**

The Parties reaffirm their rights and obligations under the Agreement establishing the WTO and, in particular, the WTO Agreements on the Application Sanitary and Phytosanitary Measures (SPS Agreement) and on Technical Barriers to Trade (TBT Agreement). The Parties also reaffirm their rights and obligations under the International Plant Protection Convention (IPPC), the Codex Alimentarius, and the World Animal Health Organisation (OIE).

The Parties reaffirm their commitment to improving public health in Côte d'Ivoire, in particular by strengthening its capacities to identify non-compliant products.

These commitments, rights and obligations underpin the activity of the Parties in relation to this Chapter.

### **Article 37. Objectives**

The objectives of this Chapter are to facilitate the trade in goods between the Parties, and to increase their ability to identify, prevent and eliminate unnecessary barriers to trade caused by technical regulations, standards and conformity assessment procedures applied by either Party, while preserving the Parties' ability to protect public health, animals and plants.

### **Article 38. Scope and Definitions**

1. The provisions of this Chapter shall apply to technical regulations and standards, to the conformity assessment procedures set out in the TBT Agreement and to the sanitary and phytosanitary measures (hereinafter the "SPS standards") in so far as they affect trade between the Parties.

2. For the purposes of this Chapter and except where otherwise indicated, the definitions of the SPS and TBT Agreements, the Codex Alimentarius, the IPPC and the OIE shall apply, including for all references to "products" in this Chapter and in the Appendices to this Agreement.

### **Article 39. Competent Authorities**

The authorities of the Parties responsible for the implementation of the measures set out in this Chapter are described in Appendix II. In accordance with Article 41, the Parties shall keep each other informed in due time of any significant changes in the competent authorities listed in Appendix II. The EPA Committee shall adopt any necessary amendments to Appendix II.

## **Article 40. Determination of Sanitary and Phytosanitary Areas**

In relation to importing conditions, the Parties may, on a case-by-case basis, identify and put forward areas with an established sanitary and phytosanitary status, with reference to Article 6 of the SPS Agreement.

## **Article 41. Transparency of Trade Conditions and Exchange of Information**

1. The Parties shall inform each other of any changes to their technical regulations for the products (in particular live animals and plants).
2. The Parties agree to inform each other in writing, as soon as possible, of the measures taken to prohibit the importation of goods in a spirit of collaboration with the aim of addressing a given problem concerning health (public, animal or plant), prevention or the environment, in accordance with the recommendations set out in the SPS Agreement.
3. The Parties agree to exchange information with the aim of cooperating to ensure that their products comply with the technical regulations and standards subject to which they may access each other's markets.
4. The Parties shall also directly exchange information on other areas which the Parties agree to be of potential importance for their trade relations, including food safety issues, the sudden appearance of animal or plant diseases, scientific opinions and other noteworthy events relating to product safety. In particular, the Parties undertake to inform each other when they apply the principle of pest- or disease-free areas and areas of low pest or disease prevalence, as provided for in Article 6 of the SPS Agreement.
5. The Parties agree to exchange information on the epidemiological surveillance of animal diseases. As regards phytosanitary protection, the Parties will inform each other of the appearance of parasites presenting a known and immediate danger for the other Party.
6. The Parties agree to cooperate with a view to rapidly alerting each other when new regional rules might have an impact on mutual trade.

## **Article 42. Cooperation In International Bodies**

The Parties agree to cooperate with the international standardisation bodies, including with the aim of facilitating the participation of Ivorian representatives in the meetings of these bodies.

## **Article 43. Cooperation**

1. The Parties recognise the importance of cooperating in the areas of technical regulations, standards and conformity assessment in order to achieve the objectives of this Chapter.
2. The Parties agree to cooperate in accordance with the provisions of Article 4 with a view to improving the quality and competitiveness of priority products for Côte d'Ivoire and access to the European Community market, including through assistance measures, particularly those which are financial in nature, in the following fields:
  - (a) the establishment of an appropriate framework for the exchange of information and sharing of expertise between the Parties;
  - (b) the adoption of technical standards and regulations, conformity assessment procedures and sanitary and phytosanitary measures which are harmonised at regional level on the basis of the relevant international standards;
  - (c) the strengthening of the capacities of public and private stakeholders, including information and training, with a view to complying with the standards, regulations and measures of the European Community, and to participating in international authorities;
  - (d) the development of national capacities for assessing the conformity of products and access to the market of the European Community.

## **Title IV. Services, Investments and Rules Concerning Trade**

### **Article 44.**

On the basis of the Cotonou Agreement, the Parties shall take all necessary measures and cooperate in order to encourage the negotiation and earliest possible conclusion of a global EPA in accordance with the relevant WTO provisions between the EC Party and West Africa as a whole, in the following areas:

(a) trade in services and e-commerce;

(b) investments;

(c) current payments and capital movements;

(d) competition;

(e) intellectual property;

(f) public procurement;

(g) sustainable development;

(h) the protection of personal data. The Parties shall adopt all appropriate measures with a view to encouraging the conclusion of a global EPA between the EC Party and West Africa before the end of 2008.

## **Title V. Prevention and Settlement of Disputes**

### **Chapter 1. Objective and Scope**

#### **Article 45. Objective**

The objective of this Title is to prevent and settle disputes which could occur between the Parties in order to reach, as far as possible, a mutually satisfactory solution.

#### **Article 46. Scope**

1. This Title shall apply to all disputes concerning the interpretation or application of this Agreement, with the exception of the provisions of Title II of the Agreement and except where specifically provided otherwise.

2. Notwithstanding paragraph 1, the procedure set out in Article 98 of the Cotonou Agreement shall apply in the event of disputes concerning the financing of cooperation on development, as specified in the Cotonou Agreement.

### **Chapter 2. Consultation and Mediation**

#### **Article 47. Consultations**

1. The Parties shall endeavour to settle disputes covered by Article 46 by entering into consultations in good faith in order to reach a mutually satisfactory solution.

2. A Party wishing to enter into consultations does so by presenting a request in writing to the other Party with a copy to the EPA Committee, specifying the measure in question and the provisions of the Agreement with which, in its opinion, the measure fails to comply.

3. The consultations shall be initiated within 40 days of the date on which the request was submitted. They shall be considered closed within 60 days of the date on which the request was submitted unless the Parties agree to pursue them. The information exchanged during the consultations shall remain confidential.

4. In urgent situations, in particular those involving perishable or seasonal foodstuffs, the consultations shall be initiated within 15 days of the date on which the request was submitted and considered closed within 30 days of the date on which the request was submitted.

5. If the consultations are not initiated within the time-limits specified in paragraph 3 or paragraph 4, or if the consultations are closed without an agreement on a mutually satisfactory solution, the complaining Party shall have the option of

requesting the creation of a special arbitration group in accordance with Article 49.

## **Article 48. Mediation**

1. If the consultations do not lead to a mutually satisfactory solution, the Parties may, by amicable agreement, resort to a mediator. Unless the Parties decide otherwise, the terms of reference of the mediation shall be those set out in the consultation request.
2. Unless the Parties to the dispute agree on a mediator within ten days of the mediation request being submitted, the Chairperson of the EPA Committee or his/her delegate, shall choose by lot a mediator from among the individuals on the list referred to in Article 64 and who are not citizens of the Parties. The selection shall be made within 20 days of the mediation request being submitted, in the presence of a representative from each of the Parties. The mediator shall convene a meeting of the Parties at the latest 30 days after being appointed. The mediator shall receive submissions from each Party at the latest 15 days before the meeting and shall announce his/her opinion at the latest 45 days after being appointed.
3. In his/her opinion, the mediator may make recommendations on how the dispute should be settled, in accordance with the provisions in Article 53. The mediator's opinion shall not be binding.
4. The Parties may agree to modify the time-limits referred to in paragraph 2. The mediator may also decide to modify these time-limits on the request of either Party or on his/her own initiative, depending on the particular difficulties affecting the Party concerned and the complexity of the case.
5. The mediation procedures and in particular the information exchanged and the positions adopted during these procedures shall remain confidential.

## **Chapter 3. Procedures for and Settlement of Disputes**

### **Article 49. Initiating the Arbitration Procedure**

1. Where the Parties do not settle the dispute after having recourse to the consultations provided for in Article 47 or after engaging in the mediation referred to in Article 48, the complaining Party may request the establishment of an arbitration panel.
2. The request to establish an arbitration panel shall be addressed in writing to the Party complained against and to the EPA Committee. In its request, the complaining Party shall specify the measures in question and explain why these measures infringe the provisions of the Agreement.

### **Article 50. Creation of an Arbitration Panel**

1. An arbitration panel shall be composed of three arbitrators.
2. Within ten days of the request for the establishment of an arbitration panel being submitted to the EPA Committee, the Parties shall consult in order to reach an agreement on the composition of the arbitration panel.
3. In the event that the Parties are unable to agree on the composition of the panel within the time frame laid down in paragraph 2, either Party may request the Chairperson of the EPA Committee, or her/his delegate, to select all three members by lot from the list established under Article 64: one from among the individuals proposed by the complaining Party, one from among the individuals proposed by the Party complained against and the third from among those selected by both Parties to act as Chairperson. If the Parties have agreed on the selection of one or more of the members of the arbitration panel, the remaining member(s) shall be selected according to the same procedure.
4. The Chairperson of the EPA Committee or his/her delegate shall select the arbitrators within five days of the request referred to in paragraph 3 from either of the Parties and in the presence of a representative from each Party.
5. The date on which the arbitration panel is established shall be the date on which the three arbitrators have been selected.

### **Article 51. Interim Report by the Arbitration Panel**

The arbitration panel shall submit to the Parties an interim report containing both the descriptive sections and its observations and conclusions, generally within 120 days at the latest from the date on which the panel was established. In the two weeks following the presentation of the interim report by the arbitration panel, each Party shall submit to the

arbitration panel remarks in writing concerning specific aspects of the report.

## **Article 52. Arbitration Panel Ruling**

1. The arbitration panel shall transmit its ruling to the Parties and the EPA Committee at the latest 150 days following its establishment. If it considers that this time-limit cannot be respected, the Chairperson of the panel shall inform the Parties and the EPA Committee in writing, giving reasons for the delay and stating the date on which the Committee plans to conclude its work. The arbitration ruling should under no circumstances be delivered any later than 180 days from the date on which the arbitration panel was established.

2. In urgent situations, including those involving perishable and seasonal foodstuffs, the panel shall endeavour to deliver its ruling within 75 days of being established. Under no circumstances should it deliver its ruling any later than 90 days after being established. Within ten days of being established, the panel may deliver a preliminary ruling on whether it deems the case to be urgent.

3. Each Party may ask the arbitration panel to recommend ways in which the Party complained against could achieve compliance. Achieving compliance

## **Article 53. Compliance with the Arbitration Panel Ruling**

Each Party shall take all necessary measures to implement the arbitration panel ruling. The Parties shall endeavour to agree on a time-limit for compliance with the ruling.

## **Article 54. Reasonable Time-limit for Compliance**

1. At the latest 30 days after the Parties have been informed of the arbitration panel ruling, the Party complained against shall inform the complaining Party and the EPA Committee in writing of the time it will need to achieve compliance (hereinafter "reasonable time-limit").

2. In the event of a disagreement between the Parties regarding what constitutes a reasonable time-limit within which to comply with the arbitration panel ruling, the complaining Party shall, within 20 days of notification by the Party complained against, send a written request to the arbitration panel asking it to determine a reasonable time-limit. This request shall be communicated simultaneously to the other Party and to the EPA Committee. The arbitration panel shall announce its decision to the Parties and to the EPA Committee within 30 days of submitting the request.

3. In order to determine the reasonable time-limit, the arbitration panel shall take account of the time which the Party complained against would normally need to adopt legislative or administrative measures comparable to those which the Party complained against deems necessary in order to ensure compliance. The arbitration panel may also take account of restrictions which might affect the adoption of the necessary measures by the Party complained against.

4. Where the original arbitration panel or some of its members are unable to attend further meetings, the procedures set out in Article 50 shall be applied. The time-limit for delivering a ruling shall be 45 days from the date on which the request referred to in paragraph 2 was submitted.

5. The reasonable time-limit may be extended by mutual agreement between the Parties.

## **Article 55. Re-examination of the Measures Taken to Achieve Compliance with the Arbitration Panel Ruling**

1. The Party complained against shall notify the other Party and the EPA Committee before the end of the reasonable time period of any measures it has taken to comply with the arbitration ruling.

2. In the event of a disagreement between the Parties concerning the compatibility of the measures notified under paragraph 1 with the provisions of this Agreement, the complaining Party may make a written request for an arbitration panel ruling on the matter. The request shall indicate the specific measures in question and explain why they are incompatible with the provisions of this Agreement. The arbitration panel shall communicate its ruling within 90 days from the date on which the request was submitted. In urgent situations, including cases in which perishable and seasonal foodstuffs are in question, the panel shall deliver its ruling within 45 days of the request being submitted.

3. Where the original arbitration panel or some of its members are unable to attend further meetings, the procedures set out in Article 50 shall be applied. The time-limit for notifying a ruling shall be 105 days from the date on which the request



referred to in paragraph 2 was submitted.

## **Article 56. Temporary Remedies In the Event of Non-compliance**

1. If the Party complained against fails to notify measures it has taken to comply with the arbitration panel ruling before the expiry of the reasonable time-limit, or if the arbitration panel rules that the measures notified under Article 55(1) are not compatible with that Party's obligations under the provisions of Article 53, the Party complained against shall, if so requested by the complaining Party, present an offer for temporary compensation.
2. If the Parties do not agree on compensation within 30 days of the end of the reasonable time-limit or of the ruling by the arbitration panel referred to in Article 55, according to which the compliance measures which were taken are not compatible with the provisions referred to in Article 53, the complaining Party shall be authorised, after notifying the other Party, to adopt appropriate measures. By adopting such measures, the complaining Party shall endeavour to choose measures which have the least possible impact on the achievement of the objectives of this Agreement, and shall take into consideration their impact on the economy of the Party complained against. In any case, the appropriate measures adopted pursuant to this paragraph shall not affect the provision of development assistance for Côte d'Ivoire.
3. The EC Party shall show moderation in its requests for compensation or when adopting the appropriate measures in accordance with paragraphs 1 and 2 and shall take account of the fact that the Ivorian Party is a developing country.
4. Appropriate measures or compensation are temporary and shall be applied only until the measure recognised to be in infringement of the provisions of Article 53 has been revoked or amended to bring it into line with the aforementioned provisions, or until the Parties have agreed to settle their dispute.

## **Article 57. Examination of the Compliance Measures Following on from the Adoption of Appropriate Measures**

1. The Party complained against shall notify the other Party and the EPA Committee of the measures which it has taken to achieve compliance with the arbitration panel ruling, and in the notification shall ask the complaining Party to discontinue the application of the appropriate measures.
2. If the Parties do not reach an agreement on the compatibility of the notified measures with the provisions of this Agreement within 30 days of the notification being submitted, the complaining Party shall make a request in writing for the arbitration panel to rule on the matter. The request shall be notified to the other Party and to the EPA Committee. The arbitration panel shall announce its decision to the Parties and to the EPA Committee within 45 days of the request being submitted. If the arbitration group rules that any measures taken to achieve conformity do not comply with the provisions of this Agreement, it shall decide whether the complaining Party may continue to apply the appropriate measures. If the arbitration panel rules that measures taken to achieve conformity comply with the provisions of this Agreement, the appropriate measures shall be discontinued.
3. Where the original arbitration panel or some of its members are unable to attend further meetings, the procedures set out in Article 50 shall be applied. The time-limit for notifying a ruling shall be 60 days from the date on which the request referred to in paragraph 2 was submitted. Common provisions

## **Article 58. Mutually Satisfactory Solution**

Under this Title, the Parties may at any time agree on a mutually satisfactory solution to a dispute. They shall notify the EPA Committee of any such solution. The arbitration proceedings must be complete when a mutually satisfactory solution is adopted.

## **Article 59. Rules of Procedure**

1. The dispute settlement procedures set out in Chapter 3 shall be subject to the rules of procedure adopted by the EPA Committee three months after its establishment.
2. The meetings of the arbitration panel shall be open to the public in accordance with the rules of procedure, unless the arbitration panel decides otherwise on its own initiative or at the request of the Parties.

## **Article 60. General and Technical Information**

At the request of a Party or on its own initiative, the arbitration panel may obtain information from any source, including the Parties concerned by the dispute, if it deems this to be appropriate for the arbitration proceedings. The arbitration panel shall also be authorised to obtain the opinion of experts where deemed appropriate. The Parties concerned shall have the option of submitting briefs on an amicus curiae basis to the arbitration group in accordance with the procedural rules. All information thus obtained must be disclosed to both Parties and subject to their comments.

## **Article 61. Language of Submissions**

Oral and written submissions shall be in one of the official languages of the Parties. However, the Parties shall endeavour, wherever possible, to use an official language shared by the two Parties as their common language, and shall take account of the fact that the Ivorian Party is a developing country, particularly in relation to translation difficulties.

## **Article 62. Rules of Interpretation**

The arbitration panel shall interpret the provisions of this Agreement in accordance with the customary rules of interpretation of public international law, including the Vienna Convention on the Law of Treaties. The decisions of the arbitration panel shall neither add to nor diminish the rights and obligations set out in this Agreement.

## **Article 63. Arbitration Panel Rulings**

1. The arbitration panel shall endeavour to make consensus-based decisions. However, if it is impossible to reach a decision by consensus, the dispute shall be settled by a majority vote, but the diverging opinions of the arbitrators shall under no circumstances be published.
2. The decision shall expound the substantive findings, the applicability of the relevant provisions of this Agreement, and the reasoning underpinning the findings and conclusions reached by the arbitration panel. The EPA Committee shall make the arbitration ruling known to the public, unless it decides otherwise.

# **Chapter 4. General Provisions**

## **Article 64. List of Arbitrators**

1. Three months at the latest following the application of this Agreement, the EPA Committee shall draw up a list of 15 people willing and able to act as arbitrators. Each Party shall select five people capable of being arbitrators. The two Parties shall also agree on the choice of five individuals who are not nationals of either Party and could be called upon to chair the arbitration panel. The EPA Committee shall ensure that this list is always complete.
2. The arbitrators shall possess specialist knowledge or experience of law and international trade. They shall be independent, act individually and not under the instructions of an organisation or government, shall not be affiliated to the administration of either Party, and shall observe the code of conduct annexed to the Rules of Procedure.
3. The EPA Committee may draw up an additional list of 15 people with specialist sectoral knowledge of relevance to the specific matters covered by this Agreement. Where there is recourse to the selection procedure of Article 50(2), the Chairperson of the EPA Committee may use such a sectoral list, subject to the agreement of both Parties.

## **Article 65. Links with the Wto Obligations**

1. The arbitration authorities set up under this Agreement shall not deal with disputes relating to the rights and obligations of each Party pursuant to the Agreement establishing the WTO.
2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any possible action in the WTO framework, including a dispute settlement action. However, when a Party has initiated a dispute-settlement procedure with regard to a given measure, either under Article 49(1) or under the Agreement establishing the WTO, it may not initiate a dispute-settlement procedure for the same measure with the other forum before concluding the first procedure. For the purposes of this paragraph, a Party is considered to have initiated a dispute-settlement procedure under the Agreement establishing the WTO once it has requested the establishment of a panel pursuant to Article 6 of the WTO Dispute Settlement Understanding.
3. This Agreement cannot prevent a Party from applying the suspension of obligations authorised by the WTO Dispute Settlement Body.

## **Article 66. Time-limits**

1. The time-limits set out in this Title, including time-limits for the notification of decisions by the arbitration panels, shall be counted in calendar days from the day following the act or event to which they relate.
2. All time-limits in this Title may be extended by mutual agreement between the Parties.

## **Article 67. Amendment of Title V**

The EPA Committee and each of the Parties shall be entitled to request the amendment of Title V. Amendment requests shall be examined by the EPA Committee. Amendments shall take effect only after approval by the Parties.

## **Title VI. General Exceptions**

### **Article 68. General Exception Clause**

Subject to the requirement that such measures not be applicable in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in goods, services or establishment, this Agreement shall not be construed as preventing the adoption or enforcement by the Parties of measures which:

- (a) are necessary to ensure the protection of public security, public morality or to maintain public order;
- (b) are necessary to protect human, animal or plant life or health;
- (c) are necessary to ensure compliance with laws and regulations and which are not incompatible with the provisions of this Agreement, including those relating to:
  - (i) the prevention of deceptive or fraudulent practices and means to deal with the effects of a default on contract payments;
  - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
  - (iii) safety;
  - (iv) the application of customs rules and procedures; or
  - (v) the protection of intellectual property rights;
- (d) concern the import or export of gold or money;
- (e) are necessary for the protection of national treasures of artistic, historic or archaeological value;
- (f) concern the conservation of natural, non-renewable resources where these measures involve restrictions on domestic production or consumption of goods, domestic supply or consumption of services and on domestic investors;
- (g) relate to the products of prison labour; or
- (h) are incompatible with Article 19 on national treatment, provided that the difference in treatment is aimed at ensuring effective or fair imposition or collection of direct taxes on the economic activities of investors or service suppliers of the other Party.

### **Article 69. Security Exceptions**

1. Nothing in this Agreement shall be construed:
  - (a) as requiring the Parties to supply information the disclosure of which they consider contrary to their essential security interests;
  - (b) as preventing the Parties from taking any action they deem necessary for the protection of their essential security interests:
    - (i) relating to fissionable or fusionable materials or the materials from which they are derived;

(ii) relating to economic activities undertaken directly or indirectly for the purpose of delivering supplies or provisions to a military establishment;

(iii) connected with the manufacturing of, or trade in, weapons, ammunition and war materiel;

(iv) relating to government procurement essential to national security or for national defence purposes; or

(v) taken in time of war or other emergency in international relations; or

(c) as preventing the Parties from taking any action in order to carry out obligations they have accepted for the purpose of maintaining international peace and security.

2. The EPA Committee shall be kept informed as far as possible of the measures taken pursuant to paragraphs 1(b) and 1(c) and of the date of their termination.

## **Article 70. Taxation**

1. This Agreement or any arrangement adopted under this Agreement shall not be construed as preventing the Parties from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of domicile or the place where their capital is invested.

2. This Agreement or any arrangement adopted under this Agreement shall not be construed as preventing the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to agreements to avoid double taxation or other tax arrangements or national fiscal legislation.

3. This Agreement shall not affect the rights and obligations of the Parties under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

## **Title VII. Institutional, General and Final Provisions**

### **Article 71. Continuation of Negotiations and Implementation of this Agreement**

1. The Parties shall continue negotiations in accordance with the provisions of this Agreement.

2. When negotiations are complete, the resulting draft amendments shall be submitted for approval to the relevant internal authorities.

### **Article 72. Definition of the Parties and Fulfilment of Obligations**

1. The Contracting Parties of this Agreement shall be the Republic of Côte d'Ivoire, hereinafter the "Ivorian Party" or "Côte d'Ivoire", of the one part, and the European Community or its Member States, within their respective areas of competence as derived from the Treaty establishing the European Community, hereinafter the "EC Party", of the other part.

2. For the purposes of this Agreement, the term "Party" shall refer to Côte d'Ivoire or the EC Party, as appropriate. The term "Parties" shall refer to Côte d'Ivoire and the EC Party.

3. The Parties shall adopt any general or specific measures required for them to fulfil their obligations under this Agreement and shall ensure that they comply with the objectives laid down in this Agreement.

### **Article 73. EPA Committee**

1. For the purposes of implementing this Agreement, an EPA Committee shall be established within three months from the date of signature of this Agreement.

2. The Parties agree that the composition, organisation and operation of this EPA Committee will respect the principle of equality. The Committee shall determine the rules governing its organisation and operation.

3. The EPA Committee shall be responsible for the administration of all the fields covered by this Agreement and for the achievement of all the tasks mentioned in this Agreement.

4. In order to facilitate communication and ensure the effective implementation of this Agreement, each Party shall designate a correspondent within the EPA Committee.

5. The EPA Committee meetings may be open to third parties. The West African Economic and Monetary Union (WAEMU) and ECOWAS Commissions may be invited to the EPA Committee meetings, in accordance with their internal procedures.

## **Article 74. Outermost Regions of the European Community**

1. Taking account of the geographical proximity of the outermost regions of the European Community and Côte d'Ivoire, and in order to strengthen economic and social links between these regions and Côte d'Ivoire, the Parties shall endeavour to facilitate cooperation in all the areas covered by this Agreement and facilitate trade in goods and services, promote investments and encourage transport and communication links between the outermost regions and Côte d'Ivoire.

2. The objectives set out in paragraph 1 shall be pursued as far as possible by fostering the joint participation of Côte d'Ivoire and the outermost regions in framework and specific programmes of the European Community in the areas covered by this Agreement.

3. The EC Party shall endeavour to ensure coordination between the different financial instruments of the European Community's cohesion and development policies in order to foster cooperation between Côte d'Ivoire and the outermost regions of the European Community in the areas covered by this Agreement.

4. This Agreement shall not prevent the EC Party from applying existing measures aimed at addressing the structural, social and economic situation of the outermost regions in accordance with Article 299(2) of the Treaty establishing the European Community.

## **Article 75. Entry Into Force and Denunciation**

1. This Agreement shall be signed, ratified or approved in accordance with the constitutional rules specific to each Party or, as far as the EC Party is concerned, according to its internal rules and procedures.

2. This Agreement shall enter into force on the first day of the month following that in which the Ivorian Party and the EC Party have notified each other of the completion of the procedures thus required.

3. Notification shall be sent to the Secretary-General of the Council of the European Union, who shall be the depositary for this Agreement.

4. Pending entry into force of the Agreement, the Parties shall agree to apply it provisionally, in accordance with their respective laws or by ratification of the Agreement.

5. Provisional application shall be notified to the depositary. The Agreement shall be applied provisionally ten days after receipt of such notification of provisional application by the European Community or Côte d'Ivoire.

6. Notwithstanding paragraph 4, the EC Party and Côte d'Ivoire may apply the agreement, in whole or in part, before its provisional application, to the extent that this is possible under their national legislation.

7. Either Party may give written notice to the other of its intention to denounce this Agreement. Denunciation shall take effect six months after notification to the other Party.

8. This Agreement shall be superseded by a global EPA concluded at regional level with the EC Party on the date of its entry into force. In this case, the Parties shall endeavour to ensure that the global EPA at regional level preserves most of the benefits obtained by Côte d'Ivoire under this Agreement.

## **Article 76. Territorial Application**

This Agreement shall apply to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, on the one hand, and, to Côte d'Ivoire, on the other hand.

## **Article 77. Accession of New Member States to the European Union**

1. The EPA Committee shall be advised of any request by a third State to become a member of the European Union. During the negotiations between the European Union and the applicant State, the EC Party shall provide Côte d'Ivoire with any relevant information and Côte d'Ivoire shall in turn convey its concerns to the EC Party so that it can take them fully into account. Côte d'Ivoire shall be notified of any accession to the European Union.

2. Any new Member State of the European Union shall accede to this Agreement from the date of its accession to the

European Union by means of a clause to that effect in the act of accession. If the act of accession to the European Union does not provide for such automatic accession of the new Member State of the European Union to this Agreement, the Member State concerned shall accede by depositing an act of accession with the General Secretariat of the Council of the European Union, which shall send certified copies to the Ivorian Party.

3. The Parties shall review the effects of the accession of new Member States of the European Union on this Agreement. The EPA Committee may decide on any transitional measures or amendments which may be necessary.

## **Article 78. Dialogue on Financial Issues**

The Parties agree to foster dialogue and transparency and to share best practices in the area of fiscal policy and administration.

## **Article 79. Cooperation In the Fight Against Illegal Financial Activities**

The EC Party and Côte d'Ivoire shall be committed to preventing and combating illegal, fraudulent and corrupt activities, money laundering and terrorist financing. To this end, the Parties shall take the necessary legislative and administrative measures to comply with international standards, including those laid down in the United Nations Convention against Corruption, the United Nations Convention against Transnational Organised Crime and its Protocols, the United Nations Convention for the Suppression of Terrorist Financing and the Financial Action Task Force recommendations. The EC Party and Côte d'Ivoire agree to exchange information and cooperate in these areas.

## **Article 80. Relationships with other Agreements**

1. With the exception of the articles concerning development cooperation in Title II of Part III of the Cotonou Agreement, in the event of any inconsistency between the provisions of this Agreement and the provisions of Title II of Part III of the Cotonou Agreement, the provisions of this Agreement shall prevail.

2. This Agreement shall not be construed as preventing the adoption by the European Community or by Côte d'Ivoire of measures, including trade measures, deemed appropriate and provided for in Articles 11b, 96 and 97 of the Cotonou Agreement.

3. The Parties agree that this Agreement does not require them to act in a manner inconsistent with their WTO obligations.

## **Article 81. Authentic Languages**

This Agreement is drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovene, Spanish and Swedish languages, each of these texts being equally authentic. In the event of contradiction, reference shall be made to the language in which this Agreement has been negotiated, namely French.

## **Article 82. Annexes**

The Appendices, the Annexes and the Protocol to this Agreement shall form an integral part thereof.

In witness whereof, the undersigned Plenipotentiaries have affixed their signatures below this Agreement.

Done at Abidjan on the twenty-sixth day of November in the year two thousand and eight and at Brussels on the twenty-second day of January in the year two thousand and nine, respectively.

FOR THE REPUBLIC OF CÔTE D'IVOIRE,

FOR THE EUROPEAN COMMUNITY

FOR THE FRENCH REPUBLIC

FOR THE KINGDOM OF BELGIUM

This signature also commits the French Community, the Flemish Community, the German-speaking Community, the Walloon

Region, the Flemish Region and the Brussels-Capital Region.

FOR THE REPUBLIC OF BULGARIA,

FOR THE CZECH REPUBLIC,

FOR THE KINGDOM OF DENMARK,

FOR THE FEDERAL REPUBLIC OF GERMANY,

FOR THE REPUBLIC OF ESTONIA,

FOR IRELAND

FOR THE HELLENIC REPUBLIC,

FOR THE KINGDOM OF SPAIN,

FOR THE ITALIAN REPUBLIC,

FOR THE REPUBLIC OF CYPRUS,

FOR THE REPUBLIC OF LATVIA,

FOR THE REPUBLIC OF LITHUANIA,

FOR THE GRAND DUCHY OF LUXEMBURG,

FOR THE REPUBLIC OF HUNGARY,

FOR MALTA,

FOR THE KINGDOM OF THE NETHERLANDS,

FOR THE REPUBLIC OF AUSTRIA,

FOR THE REPUBLIC OF POLAND,

FOR THE PORTUGUESE REPUBLIC,

FOR ROMANIA,

FOR THE REPUBLIC OF SLOVENIA,

FOR THE SLOVAK REPUBLIC,

FOR THE REPUBLIC OF FINLAND,

FOR THE KINGDOM OF SWEDEN,

FOR THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND.