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**PROTOCOL A/P1/7/96 ON CONDITIONS GOVERNING  
THE APPLICATION OF THE COMMUNITY LEVY**

## **THE HIGH CONTRACTING PARTIES**

**MINDFUL** of Article 7 of the ECOWAS revised Treaty establishing the Authority of Heads of State and Government and defining its composition and functions;

**AND MINDFUL** of Article 72 of the ECOWAS revised Treaty introducing a Community levy to generate revenue for financing the activities of the community;

**DESIROUS** of concluding a Protocol defining the conditions for the application of the Community levy and the modalities for transfer of receipts and utilisation of resources;

## **HAVE HEREBY AGREED AS FOLLOWS:**

### **I. DEFINITIONS**

#### **Article 1**

For the purposes of this Protocol:

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

**"Community"** means the Economic Community of West African States whose establishment is reaffirmed by Article 2 of the Treaty.

**"Member State" or "Member States"** means a Member State or Member States of the Community.

**"Third country"** means any non-Member State of the Community.

**"Authority"** means the Authority of Heads of State and Government of the Community established under Article 7 of the Treaty.

**"Council"** means the Council of Ministers of the Community established under Article 10 of the Treaty.

**"Executive Secretariat" and "Executive Secretary"** means the Executive Secretariat and Executive Secretary of the Community referred to under Article 17 of the Treaty.

**"Fund"** means the ECOWAS Fund for Cooperation, Compensation and development established under Article 21 of the Treaty.

**"Administration and Finance Commission"** (AFC) means the Commission established under Article 22 (h) of the Treaty.

## **II. TAX BASE, ASSESSMENT AND COLLECTION**

### **Article 2**

This Protocol defines the conditions for the application of the Community levy instituted in Article 72 of the Treaty.

### **Article 3**

The taxable base of the Community levy shall be the taxable value of goods, originating from third countries imported into the Community and released for home consumption.

### **Article 4**

The following shall fall outside the scope of the Community levy:

- a) products of ECOWAS origin (approved industrial products, unprocessed goods and traditional handicrafts);
- b) goods manufactured or obtained in Member States but which do not satisfy ECOWAS rules of origin;
- c) goods originating from third countries cleared for home consumption in a Member State and re-exported to another Member State.

### **Article 5**

The following shall be exempted from the Community Levy:

- a) aid, gifts and non-repayable grants received by a State or by legal entities constituted under public law and destined for charitable works recognised as being for the common good;
- b) goods originating from third countries, imported as part of financing agreements with foreign partners, subject to a clause expressly exempting the said goods from any fiscal or para-fiscal levy;
- c) goods imported by enterprises under a stabilised fiscal regime in force at the date of entry into force of this Protocol;
- d) goods on which the Community levy has been paid under an earlier regime.

## **Article 6**

The Community tax shall be levied on the basis of:

- a) the CIF value at the port of disembarkation for imports arriving by sea;
- b) the CIF value at the point of entry into the Community's Customs territory in the case of imports arriving by road;
- c) the Customs value at the airport of disembarkation for imports arriving by air;
- d) the market value for products featuring on the Market Price List.

## **Article 7**

The rate of the Community levy shall be fixed at one half percent (0.5%) of the value of imports originating from third countries. This rate may be amended, as necessary, every three years by the Authority on the recommendation of the Council of Ministers.

## **Article 8**

- 1 The national Customs Administrations of a Member State shall be responsible for assessment and collection of the Community levy.
- 2 Customs collectors or heads of Customs offices shall assess and collect all amounts receivable in respect of the Community Levy.
- 3 Such collectors or heads of Customs offices shall open an additional column in their ledgers to record a daily account of amounts received.

## **Article 9**

- 1 The securities and privileges granted to States in the collection of State fiscal revenue shall also apply to the collection of dues paid as Community levy.
- 2 The proceeds from Community levy shall enjoy, in all Member States, the privileges and immunities provided for in the Treaty, the General Convention on Privileges and Immunities of the Community, and the Headquarters Agreements.

### **III. DECLARATION AND ALLOCATION OF RETURNS**

## **Article 10**

Amounts collected as Community levy shall be paid by the national Administration, within a period not exceeding one month from the date of collection, into an account opened by the Executive Secretary in the name of ECOWAS with the Central bank of each Member State,

for States which have their own Central banks, and with the national office of the *Banque Centrale des Etats de l'Afrique de l'Ouest* (BCEAO) in the case of Member States of the *Union Monétaire Ouest Africaine* (UMOA).

#### **Article 11**

Amounts collected as Community levy shall be allocated as follows:

- a) the ordinary budgets of the Community and of its institutions, with the exception of the budget of the Fund for Cooperation, Compensation and Development;
- b) the compensation budget for loss of revenue arising from trade liberalization;
- c) the funding of development projects;
- d) any other uses as may be decided by the Authority or the Council including any increases to the capital of the ECOWAS Fund.

#### **Article 12**

The budgets and other uses referred to in Article 11 above shall be decided annually by the Council of Ministers as recommended by the Administration and Finance Commission.

### **IV. SURPLUSES AND DEFICITS**

#### **Article 13**

Any surplus recorded on the Community levy pursuant to authorised expenditure for a financial year shall be carried over into the accounts of the Executive Secretariat.

#### **Article 14**

- 1 Any deficits between total authorised expenditure and proceeds from the Community levy shall, on the decision of the Council of Ministers, be corrected using funds carried over from surpluses from previous years.
- 2 Where such deficits cannot be offset from the surpluses carried over, they shall be reversed by either of the following methods:

- i) by deferring execution of certain activities which may be postponed or for which alternative funding may be obtained;
- ii) by requesting additional funds from Member States. The deficit shall then be spread between the different budgets according to their respective share within the entire budget. The additional contributions from Member States shall be determined on the basis of the different contribution quotas applied for the budgets of the Community.

### **Article 15**

Where the deficit or surplus over three consecutive budget years exceeds 25% of the total vote, the Council of Ministers shall effect the necessary adjustments either by widening the tax base or, where there is a deficit, by raising the rate of the Community Levy or by reducing the rate in case of a surplus.

## **V. ADMINISTRATION OF THE COMMUNITY LEVY**

### **Article 16**

In the Member States, regulations governing the management of disputes concerning Customs duties and taxes shall also apply to operations involving the tax base, assessment and collection of the Community levy. Proceeds from contentious cases shall, with the exception of the actual Community levy, be paid exclusively to the State.

### **Article 17**

At the Community level, the Council of Ministers shall oversee all operations carried out by national Customs Administrations through the Executive Secretariat. The Administration and Finance Commission shall present an annual report to Council accordingly. Conditions governing this supervisory role shall be determined by Council.

### **Article 18**

The Executive Secretariat shall, in its detailed annual report to Council on the application of the mechanism and subject to the provisions of Article 7, propose any amendments it may deem necessary or which may have been submitted by one or more Member States.



## **VI. TRANSITIONAL PROVISIONS**

### **Article 19**

During a transitional period of three years, commencing from the date of entry into force of this Protocol:

1. Collection of the Community levy may be executed through channels other than those stipulated under article 8 of this Protocol.

However, the proceeds of the Community levy shall be paid in the manner and within the time-limit provided under article 10 of this Protocol.

2. Total annual withdrawals from the proceeds of the Community levy by the Executive Secretary in each Member State, shall not exceed the total of its dues in respect of contributions to all budgets and grants combined.
3. Contributions from Member states and their share of any eventual call for additional funds shall be determined in accordance with existing criteria and rules of procedure.
4. Where there is a shortfall between revenue generated by the Community levy and the contributions due from a Member State towards all budgets and grants, the Member State concerned shall pay the difference.
5. Any surplus shall be used to settle arrears of contributions and any balance herefrom shall revert to the Member State.

### **Article 20**

The Minister responsible for ECOWAS affairs in each Member State shall, on the 1<sup>st</sup> of January of each fiscal year, notify the bank in which the ECOWAS community levy account has been opened, of the maximum amount which may be withdrawn from this account by the Executive Secretary of ECOWAS.

### **Article 21**

The Executive Secretariat shall, in collaboration with the Member States and the ECOWAS national units, present an evaluation report to the Council of Ministers on the mechanism of the Community levy before the expiration of the transition period.

Council shall, on the basis of this evaluation report, determine the arrangements necessary to ensure a smooth passage to the substantive regime.

## **VII.**

### **FINAL PROVISIONS**

#### **Article 22**

##### **Settlement of Disputes**

1. Any dispute between a Member State and the Community with regard to the interpretation and application of this Protocol shall be settled amicably within a period of six months from the occurrence of the dispute.
2. Failing this, the dispute shall be referred to the Community Court of Justice whose decision shall be final and binding.

#### **Article 23**

##### **Sanctions**

The sanction specified in Article 77 of the Treaty shall be applicable to a Member State which fails to honour the obligations imposed on it by the provisions of this Protocol.

#### **Article 24**

##### **Amendment and Revision**

- 1 Any Member State may propose any amendment or revision of this Protocol.
- 2 All proposals shall be submitted to the Executive Secretariat which shall transmit them to Member States within thirty (30) days of their receipt. The Authority shall examine all proposals for amendment and revision at the expiration of the three-month period granted to Member States.

#### **Article 25**

##### **Deposit and Entry into Force**

- 1 This Protocol shall enter into force upon ratification by at least nine (9) signatory States, in accordance with the constitutional regulations in force in each Member State.
- 2 This Protocol and all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies thereof to all Member States, notify them of the date of deposit of the instruments of ratification and register the Protocol with the Organisation of African Unity, the United Nations and all other

Organisations as may be determined by the Council of Ministers.

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

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

**DONE AT ABUJA, THIS 27<sup>TH</sup> DAY OF JULY 1996 IN SINGLE ORIGINAL IN ENGLISH,  
FRENCH AND PORTUGUESE, ALL THREE TEXTS BEING EQUALLY AUTHENTIC.**

**signed**

**H.E. MATHIEU KEREKOU**

*President, Head of State and Head of  
Government of the Republic of BENIN*

**signed**

**H.E. BLAISE COMPAORE**

*President of FASO and Chairman of the Council of  
Ministers of BURKINA FASO*

**signed**

**H.E. CARLOS ALBERTO WAHANON DE  
CARVALHO VEIGA**

*Prime Minister and Head of Government of the  
Republic of CAPE VERDE*

**signed**

**H.E. HENRI KONAN BEDIE**

*President of the Republic of COTE D'IVOIRE*

**Signed**

**H.E. CAPTAIN YAHYA A.J.J. JAMMEH**

*Chairman of the Armed Forces Provisional Ruling  
Council and Head of State of the Republic of  
GAMBIA*

**signed**

**H.E. Flt. Lt. Jerry John Rawlings**

*President of the Republic of GHANA*

**Signed**

**H.E. SIDYA TOURE**

*Prime Minister, and Minister of Economy, Finance  
and Planning of the Republic of GUINEA for and on  
behalf of Head of State, President of the Republic  
of GUINEA*

**signed**

**HON. LUIS OLIVEIRA SANCA**

*Minister of Trade of the Republic of GUINEA  
BISSAU, for and on behalf of the Head of State of  
the Republic of GUINEA-BISSAU*

**Signed**

**H.E. WILTON SANKAWULO**

*Chairman of the Council of State of LIBERIA  
National Transitional Government*

**signed**

**H.E. ALPHA OUMAR KONARE**

*President of the Republic, Head of State of the  
Republic of MALI*

**Signed**

**HON. B. AHMED OULD MINNIH**

*Minister, Secretary-General of the office of the  
President, for and on behalf of the President of the  
Islamic Republic of MAURITANIA*

**signed**

**H.E. IBRAHIM MAINASSARA BARE**

*President of the Republic of NIGER*

**Signed**

**H.E. GENERAL SANI ABACHA**

*Head of State, Commander-in-Chief of the Armed Forces of the Federal Republic of NIGERIA*

**Signed**

**HON. E. MASSOKHNA KANE**

*Minister of African Economic Integration for and on behalf of the President of the Republic of SENEGAL*

**Signed**

**H.E. ALHAJI AHMAD TEJAN KABBAH**

*President of the Republic of SIERRA LEONE*

**H.E. GNASSINGBE EYADEMA**

*President of the TOGOLESE Republic*