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**SUPPLEMENTARY PROTOCOL A/SP.1/06/06
AMENDING THE REVISED ECOWAS TREATY**

THE HIGH CONTRACTING PARTIES,

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

MINDFUL of Article 90 of the ECOWAS Treaty relating to amendment and revision of the revised Treaty of the Economic Community of West African States;

MINDFUL of Protocol A/P1/12/01 amending Article 1, 3, 6 and 21 of the said Treaty of the Economic Community of West African States;

MINDFUL of Regulation C/REG.15/01/03 establishing the Ad hoc Ministerial Committee on the harmonization of Community legislative texts, particularly in its Article 2 which directed that the Committee shall undertake a critical review of the revised ECOWAS Treaty, Protocols and Conventions, with a view to endowing the Community with modern legal instruments whose interpretation shall contribute to the acceleration of the integration process;

MINDFUL of the recommendations of the meeting of the Ad hoc Ministerial Committee on the harmonization of Community Texts held on 19 June 2003, particularly those concerning corrections to be made to the shortcomings observed in the Treaty which can impede integration;

MINDFUL of the report of the fiftieth session of the Council of Ministers which adopted the recommendations of the Ad hoc Ministerial Committee referred to above and requested the Executive Secretariat to take urgent measures to amend the revised Treaty, with a view to adopting a new legal regime for Community acts and more appropriate deadlines for the entry into force of certain texts;

BEARING in mind Decision A/DEC.12/8/97 relating to the frequency and venue of ECOWAS Summits and Decision A/DEC.27/01/06 on the organization of the ECOWAS Chairmanship;

MINDFUL of Paragraph 50 of the Final Communiqué of the twenty fifth Session of the Authority which directed the Executive Secretariat to undertake a study on the enhancement of the powers to the Community Parliament;

MINDFUL of Decision A/DEC.6/1/05 on the modalities for implementation of Article 6 of the Protocol relating to the Community Parliament;

MINDFUL of the Final Communiqué of the twenty-eighth session of the Authority of Heads of State and Government in which the Heads of State and Government issued the directive that the Executive Secretariat should be transformed, with a view to enabling it to adapt to the international environment and more successfully fulfil its role in the sub-regional integration process;

MINDFUL of Decision A/DEC.16/01/06 transforming the Executive Secretariat into a Commission;

MINDFUL of the report of the fifty-fifth session of the Council of Ministers which called for the harmonization of terms of office of all Statutory Appointees in all the Community institutions and requested the Executive Secretariat to produce a global schedule of rotation of Member States in statutory positions in the Commission;

CONSIDERING the need to amend some of the provisions of the revised Treaty in order to effectively implement the above directives;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

The terms “Executive Secretariat”, “Executive Secretary” and “Deputy Executive Secretary” wherever they appear in the revised Treaty are hereby replaced by the terms “Commission of the Economic Community of West African States”, “President of the ECOWAS Commission” and “Commissioners” respectively.

ARTICLE 2

Articles 8, 9, 10 (2), 12, 17, 18, 19, 22(1), 79, and 83 are hereby abrogated and replaced by new provisions as follows:

New Article 8: Sessions and Chairmanship of the Community

- 1 The Authority shall meet at least twice a year in ordinary session. An extraordinary session may be convened by the Chairman of the Authority or at the request of a Member State, provided that such a request is supported by a simple majority of the Member States.
- 2 One of the sessions shall be held at the ECOWAS Headquarters while the other session shall take place in one of the other Member States.
- 3 The office of Chairman shall be rotated annually among Member States and shall take into account the alphabetical order of Member States.
- 4 A Member State eligible for chairmanship may renounce its right to occupy the post. In such a case, the Member State concerned shall give notice of its intention at least three months before the date of the Summit during which the position of chair is to be allocated.
- 5 Without prejudice to the provisions of paragraph 3 above, a Member State aspiring to the office of Chairman of the Community shall be automatically disqualified in the event of a coup d'état or a change of government through unconstitutional means in that country.
- 6 The office of Chairman of the Authority shall be reserved only for Member States

effectively implementing texts governing the Community levy.

New Article 9: Legal Regime of the Community

- 1 Community Acts shall henceforth be known as Supplementary Acts, Regulations, Directives, Decisions, Recommendations, and Opinions.
- 2 To accomplish their missions:
 - a) The Authority shall adopt Supplementary Acts which shall be annexed to the Treaty;
 - b) Council shall enact Regulations, issue Directives, take Decisions or formulate Recommendations and Opinions;
 - c) The Commission may adopt Rules relating to the execution of Acts enacted by the Council of Ministers. The Rules so adopted by the Commission shall have the same legal force as Acts adopted by Council for the execution of which the Rules are adopted.
 - d) The Commission shall formulate Recommendations and Opinions.
- 3 Supplementary Acts adopted by the Authority shall be binding on the Community institutions and Member States, where they shall be directly applicable without prejudice to the provisions of Article 15 of the revised Treaty.
- 4 Regulations shall have general application. The provisions of Regulations shall be binding and directly applicable in Member States. They shall equally be binding on the Community institutions.
- 5 Directives shall be binding on all the Member States in terms of the objectives to be realized. However, Member States shall be free to adopt modalities they deem appropriate for the realization of such objectives.
- 6 Decisions shall be binding on all those designated therein.
- 7 Recommendations and opinions are not enforceable.
- 8 Unless otherwise provided in this Supplementary Protocol or in any other Protocol, Community Acts under consideration shall be adopted by unanimity, consensus or by a two-thirds majority of the Member States.

Article 10 Paragraph 2 (New)

“The Council shall comprise the Minister in charge of ECOWAS Affairs, the Minister in charge of Finance and any other Minister where necessary”.

New Article 12: **Publication and Entry into Force of Community Acts**

- 1 Supplementary Acts, Regulations, Directives and Decisions shall be published by the Commission in the Official Journal of the Community within thirty (30) days after signature. They shall also be published by each Member State in its National Gazette within the same time-frame.
- 2 Supplementary Acts, Regulations, and Directives shall enter into force after publication by the Commission on a date specified therein.
- 3 Decisions shall be communicated to the persons designated therein and shall enter into effect on the date of the notification.

New Article 17: **The Commission: Establishment and Composition**

- 1 There is hereby established a Commission of the Economic Community of West African States.
- 2 The Commission shall have nine Commissioners namely: the President, the Vice President, seven (7) other Commissioners and such other staff as may be required for the smooth functioning of the Community.
- 3 Whenever it is deemed necessary, the Authority may decide to restructure the Commission and modify the number of Commissioners.

New Article 18: **Appointments**

1. The President of the Commission shall be appointed by the Authority for a single four-year term. The appointment shall be done to ensure that Member States can successively occupy the position of President.
2. The President of the Commission shall be a person of proven competence and integrity, with a global vision of political and economic problems and regional integration.
3. (a) The Vice President, Commissioners and statutory appointees in other Institutions shall be appointed by the Council of Ministers on the

recommendation of the Ministerial Committee on the Selection and Evaluation of the Performance of Statutory Appointees following the interview of the three (3) candidates nominated by their respective Member States to whom the posts have been allocated.

- (b) The Commissioners shall be appointed for a single four-year term. During their term of office, the members of the Commission may not be removed from their posts except in cases of serious misconduct or incapacity.
- (c) The members of the Commission shall act independently in the exercise of their functions, in the overall interest of the Community. They shall neither solicit nor receive instructions from any government or external body. Member States shall respect the independence of the members of the Commission. At the beginning of their term of office, members of the Commission shall take an oath of office to be administered by the President of the Court of Justice at a Session of the Council of Ministers. However, the oath of office of the President shall be administered by the President of the Court of Justice at a Session of the Authority of Heads of State and Government. The Commissioners by this oath undertake to discharge their duties independently and honestly and shall not undertake any other professional activity during their term of office, whether such activity is remunerated or not.
- (d) The mandate of the members of the Commission may be interrupted following resignation or dismissal. The decision for dismissal with respect to the President is taken by the Authority and that of all other statutory appointees, by the Council of Ministers. Dismissal of Judges of the Community Court of Justice shall be carried out by the Authority upon the recommendation of a Community Judicial Council to be established by the Authority. In the event of interruption of the mandate of a member of the Commission, the Commissioner concerned shall be replaced for the outstanding duration of his or her term of office by a citizen of that country. Except in cases of dismissal, members of the Commission shall remain at their posts until they are replaced.
- (e) The members of the management of the ECOWAS Bank for Investment and Development (EBID) and its subsidiaries shall be appointed on the basis of the Rules and Regulations in force in these institutions.
- (f) The statutory appointees of the other Community institutions shall be appointed for a single four-year term of office.
- (g) Vacancies shall be advertised in all Member States to which the statutory posts have been allocated, with the exception of the post of President of the Commission.

- 4 Representation of Member States within the management cadre of Community institutions shall be based on a transparent, equitable and predictable system of rotation adopted by the Authority.
- 5 In appointing professional staff for the Community, due regard shall be had, subject to ensuring the highest standards of efficiency and technical competence, to maintaining equitable geographical distribution of posts and gender balance among nationals of all Member States.

New Article 19: Functions

- 1 Unless otherwise provided in the Treaty, Protocols and Supplementary Acts, the President of the Commission shall be the Principal Officer of the Community and the Chief Executive Officer of the Commission.
- 2 The President of the Commission shall coordinate the activities of the Community Institutions and shall be the legal representative of the Community.
- 3 Without prejudice to the general scope of his responsibilities as provided under Article 19 of the Revised Treaty, the President of the Commission shall be responsible for the external relations of the Commission, international cooperation, strategic planning and policy analysis of Regional Integration activities within the sub-region.
- 4 The Commission shall exercise its powers to ensure the smooth functioning of the Community and protect the overall interest of the Community. To this end, it shall submit to the Authority and Council any recommendation it may deem necessary to promote and develop the Community.
- 5 The Commission shall formulate proposals that will enable the Authority and Council to take decisions on the main orientations of policies of Member States and the Community.
- 6 The Commission may in consultation with the ECOWAS National Units, request all the institutions and national bodies for any useful information, organize necessary consultations with the institutions and national bodies where it is convinced that such information and consultations may assist it in the accomplishment of its mission.

New Article 22 paragraph 1: Technical Committees: - establishment and composition

- a) The technical Commissions established in accordance with Article 22 of the Revised ECOWAS Treaty are henceforth referred to as Technical Committees.

- b) The following Technical Committees are hereby established:
- (i) Administration and Finance;
 - (ii) Agriculture, Environment and Water Resources;
 - (iii) Human and Gender Development;
 - (iv) Infrastructure;
 - (v) Macro economic policies;
 - (vi) Political Affairs, Peace and Security;
 - (vii) Trade, Customs, Free Movement of Persons;
 - (viii) Legal and Judicial Affairs;
 - (ix) Communication and Information.

New Article 79: Relations Between the Community and other Regional Economic Communities

- 1 The President of the Commission may conclude cooperation agreements with other regional communities, with a view to ensuring effective realization of regional integration objectives.
- 2 Such cooperation agreements shall be brought to the immediate attention of the Council of Ministers through the Chairman of Council.

New Article 83 paragraph 3: Cooperation Agreements

Cooperation on agreements to be concluded in accordance with the provisions of paragraphs 1 and 2 of Article 83 of the Revised Treaty shall be concluded by The President of the Commission who shall fulfill the conditions stipulated under new Article 79 (2) above.

ARTICLE 3

Article 13 is hereby amended as follows :

Article 13 (New)

- 1 There is hereby established a Parliament of the Community.

- 2 The Community shall ensure the effective involvement of the Parliament in decision making.
- 3 The method of election of the Members of the Community Parliament, its composition, functions, organization as well as modalities for its involvement in decision-making shall be defined in a Protocol relating thereto.

ARTICLE 4

- 1 The present Supplementary Protocol shall enter into force provisionally upon signature by the Heads of State and Government. Consequently, signatory ECOWAS Member States undertake to begin to implement its provisions.
- 2 The present Supplementary Protocol shall enter into force definitively upon ratification by at least nine signatory Member States, in accordance with the constitutional rules in force in each Member State.
- 3 The present Supplementary Protocol shall be annexed to the revised Treaty of which it shall form an integral part.

ARTICLE 5

Member States shall adopt constitutional, legislative and regulatory provisions to ensure full application of the present Supplementary Protocol.

ARTICLE 6

Notwithstanding the provisions of new Article 9 above, all Community Conventions, Protocols, Decisions, Regulations and Resolutions of the Community made since 1975 and which are still in force shall remain valid and in force, except where they are incompatible with the present Supplementary Protocol.

ARTICLE 7

The present Supplementary Protocol and all instruments of ratification shall be deposited with the Commission which shall transmit certified true copies of this Supplementary Protocol to all Member States and notify them of the dates of deposit of the instruments of ratification and shall register this Supplementary Protocol and instruments of ratification with the African Union, the United Nations Organization, and such other organizations as the Council may determine.

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

DONE AT ABUJA THIS 14TH DAY OF JUNE 2006

IN A SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE
LANGUAGES, ALL TEXTS BEING EQUALLY AUTHENTIC

Signed

H.E. Thomas Boni YAYI
President of the Republic of BENIN

Republic of CAPE VERDE

Signed

H. E. Alieu M. NGUM
*Minister of Trade, Industry and
Employment Representing The
President of the Republic of The Gambia*

Signed

H.E. Fatoumata Kaba SIDIBE
*Minister for International Cooperation
Representing the President of the Republic of
GUINEA*

Signed

H.E. ELLEN JOHNSON-SIRLEAF
President of the Republic of LIBERIA

signed

H.E. Mamadou TANDJA
President of the Republic of NIGER

Signed

Hon. Abdou Aziz Sow
*Minister of NEPAD, of African Economic Integration
and of Policy of Good Governance
Representing H. E. The President of SENEGAL*

Signed

S.E. Faure Ezzionma Gnassingbe
The President of the TOGOLESE Republic

Signed

H.E. Blaise COMPAORE
*Chairman of the Council of Ministers
President of FASO*

signed

S.E. Dr. Albert Mabri Toikeusse
*Minister of African Integration
Representing The President of the Republic of
COTE D'IVOIRE*

Signed

H. E. John Agyekum KUFUOR
President of the Republic of Ghana

signed

H. E. DE SOUSA RUI DIA
*Minister, Presidency of Council of Ministers on
Social Communication & Affairs Representing the
President of the Republic of GUINEA-BISSAU*

signed

H.E. Amadou Toumani TOURE
President of the Republic of MALI

signed

H.E. Olusegun OBASANJO GCFR
*President, Commander-in-Chief
of the Armed Forces of the Federal Republic of
NIGERIA*

signed

H.E. Alh. (Dr.) Ahmad Tejan KABBAH
President of the Republic of SIERRA LEONE.