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**SUPPLEMENTARY PROTOCOL A/SP.2/06/06
AMENDING ARTICLE 3 PARAGRAPHS 1, 2 AND 4,
ARTICLE 4 PARAGRAPHS 1, 3 AND 7 AND ARTICLE 7
PARAGRAPH 3 OF THE PROTOCOL ON THE
COMMUNITY COURT OF JUSTICE**

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 33 of Protocol A/P1/7/91 on the procedure for amending the Protocol on the Community Court of Justice;

MINDFUL of Supplementary Protocol A/SP1/1/05 amending the Protocol on the Community Court of Justice;

MINDFUL of the directives contained in the final reports of the fifty-third and fifty-fifth sessions of the Council of Ministers on the restructuring of the Community Court of Justice;

RECALLING that the aforementioned directives provided that the Court should be restructured in such a way as to enable the Judges devote themselves to their main duties;

RECALLING also that the same directives also provided that with the restructuring the Court shall be equipped with an organizational chart which will enable it perform its duties optimally, ensure harmonization of tenure with statutory positions in other Institutions of the Community and include the position of judges in the general plan for rotating statutory posts among member States;

CONSIDERING the need to appoint to the Community Court of Justice competent judges, who can contribute, through the quality of their decisions, to the development of Community Law, capable of consolidating and speeding up the regional integration process;

CONSIDERING also the need to ensure that the judges of the Community Court of Justice are persons of high moral standing upon assumption of duty and to guarantee that this quality is maintained by the judges throughout their term of office;

CONCERNED with providing the Community Court of Justice with functional organs and suitable human resources;

DESIROUS of adopting recruitment modalities based on criteria which would allow for selection and appointment of the most suitable persons as judges of the Community Court of Justice and to adopt any measure that will enhance the functioning of the Court;

HEREBY AGREE AS FOLLOWS:

ARTICLE 1

All references to "Executive Secretariat" and "Executive Secretary" in Protocol A/P1/7/91 are hereby deleted and substituted respectively with "Commission" and "President".

ARTICLE 2

Article 3, paragraphs 1, 2 and 4 of Protocol A/P1/7/91 are amended as follows:

Article 3 Paragraph 1 (new)

“The Court shall be composed of seven (7) independent judges selected and appointed by the Authority from nationals of the member States who are persons of high moral character, and possess the qualification required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognised competence in international law, particularly in areas of Community Law or Regional Integration Law. Furthermore, candidates to the post of Judges of the Community Court of Justice shall have a total of no less than twenty (20) years professional experience.”

Article 3 Paragraph 2 (new)

The members of the Court shall elect a President and Vice-President from among their numbers who shall serve in those capacities for renewable terms of two (2) years. No two (2) members of the Court shall be nationals of the same member State”.

Article 3 Paragraph 4 (new)

- “i. The Authority shall allocate vacant posts to member States. A Judicial Council of the Community composed of the Chief Justices of the Supreme Courts of Member States to which the posts have not been allocated or their representatives, shall select three (3) candidates per country from among the nationals of the countries to which the posts have been allocated. The Judicial Council shall also interview the candidates and propose their appointments by the Authority of Heads of State and Government through the Council of Ministers.”
- “ii. The composition and modalities for the functioning of the Judicial Council of the Community for the recruitment of Judges shall be defined in a decision of the Authority”.

ARTICLE 3

- i. There is hereby established a Bureau within the Court which shall comprise three (3) members of the Court namely, The President, the Vice-President and the oldest and longest serving judge of the Court;
- ii. The functions of the Bureau shall be defined in a Regulation of the Council of Ministers.

ARTICLE 4

Article 4, Paragraphs 1, 3 and 7 of Protocol A/P1/7/91 are amended as follows:

Article 4 Paragraph 1 (new)

“Members of the Court shall be appointed for a non-renewable four (4) year term.”

Article 4 Paragraph 3 (new)

“At the expiration of the term of a member of the Court, the said member shall remain in office until the appointment and assumption of office of his successor.”

Article 4 Paragraph 7 (new)

- i. “Cases of discipline of judges and cases of inability to perform the functions of a Judge by reason of physical or mental disability of members of the Community Court of Justice, shall be brought before the Judicial Council of the Community for consideration.
- ii. The composition and modalities for the functioning of the Judicial Council of the Community in disciplinary matters shall be defined by a decision of the Authority.”

ARTICLE 5

Article 7 paragraph 3 of Protocol A/P1/7/91 is amended as follows:

Article 7 Paragraph 3 (new)

“In case of resignation of any member of the Court, the President of the Court shall inform the President of the Commission who shall report to the Chairman of the Judicial Council of the Community. The Community Judicial Council shall recommend a replacement in accordance with the selection procedure defined under Article 1 of this Supplementary Protocol. The new Judge shall serve the unexpired term of the predecessor and shall also be a citizen of the same country.”

ARTICLE 6

Article 3 paragraphs 5, 6 and 7 and Article 4 paragraphs 2, 6 and 7 of Protocol A/P1/07/01 as well as all other provisions that are inconsistent with the provisions of this Supplementary Protocol are hereby abrogated.

ARTICLE 7

The provisions of Article 2 of this Supplementary Protocol relating to the criteria for short-listing candidates for the position of judges and procedure for their appointment, shall apply whenever a vacancy arises in the Community Court of Justice.”

ARTICLE 8

- 1 This Supplementary Protocol shall come into force provisionally upon its signature by the Heads of State and Government. Consequently, signatory member States, the Community Court of Justice and the Commission undertake to begin to implement its provisions.
- 2 This Supplementary Protocol shall come into force definitively upon its ratification by at least nine (9) signatory States, in accordance with the Constitution of each Member State.

ARTICLE 9

This Supplementary Protocol and all its instruments of ratification shall be deposited at the Commission which shall transmit certified copies of this Supplementary Protocol to all Member States, notify them of the date of deposit of the instruments of ratification and register this Supplementary Protocol with the African Union, United Nations Organization and any other organization as may be decided by Council.

In Witness Whereof We, the Heads of State and Government of the Economic Community of West African States, Have Signed this Supplementary Protocol

In Single Original, in French, English and Portuguese, the Three (3) Texts Being Equally Authentic.

Done at Abuja, this 14th day of June 2006

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.