COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

FORTY THIRD ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

Abuja, 17 – 18 July, 2013

SUPPLEMENTARY ACT /SA.1/07/13 RELATING TO THE ESTABLISHMENT AND IMPLEMENTATION OF THE JOINT BORDER POSTS CONCEPT WITHIN MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES

THE HIGH CONTRACTING PARTIES,

MINDFUL of Article 7, 8 and 9 of the ECOWAS Treaty as amended establishing the Authority of Heads of State and Government;

MINDFUL of Article 32 of the said Revised Treaty which provides for the adoption of common transport and communication policies laws and Regulations as a means of ensuring harmonious integration of the physical infrastructure of Member States and the promotion and facilitation of movement of persons, goods and services within the Community;

MINDFUL of Protocol A/P.1/5/79 of 29th May 1979 as amended relating to Free Movement of Persons, Residence and Establishment;

MINDFUL of the ECOWAS Decision A/DEC 20/5/80 of the Authority of Heads of State and Government of May 18th, 1980 relating to the Community Transport Program;

MINDFUL of Convention A/P4/5/82 on inter-State Road Transit of Goods;

MINDFUL of the ECOWAS Convention No A/P2/5/82 of 29 May 1982 regulating inter-State Road Transportation between ECOWAS Member States;

MINDFUL of Convention A/P5/5/82 of May 29th, 1982 for mutual administrative assistance on customs matters;

MINDFUL of Decision C/DEC.8/12/88 of the Council of Ministers on the second phase of ECOWAS road projects relating to interconnection of roads for the opening up of the landlocked countries;

MINDFUL of Protocol A/SP1/5/90 of May 30th, 1990 establishing within the Community, a guarantee mechanism for inter-State road transit of goods operations;

MINDFUL of Convention A/P.1/7/92 of 29 July 1992 relating to mutual assistance in criminal matters;

MINDFUL of Convention A/P.1/8/94 of 06 August 1994 on extradition;

MINDFUL of the ECOWAS Decision A/DEC.13/01/03 of January 31st, 2003 relating to the implementation of the Regional Road Transit Facilitation Program;

MINDFUL of the Yamoussoukro Resolution n°2 of September 4th, 2008 of Ministers of Transport on the implementation of the Joint Border Posts Program in ECOWAS and UEMOA member States;

MINDFUL of Supplementary Act SP.17/02/12 relating to the harmonization of standards and procedures for the control of dimensions, weight and axle load of goods vehicle within Member States of the Economic Community of West Africa;

CONSIDERING provisions of the United Nations Convention relating to rights of transit trade for landlocked countries signed in New York on July 8th, 1985;

NOTING THAT the current organization and management of border posts poses obstacles to the flow of transport and transit within and between the Community Member States;

NOTING ALSO that the trade and free movement of persons and goods within the Community can be achieved by establishing and implementing joint border posts;

ACKNOWLEDGING the need to reinforce cooperation between ECOWAS Member States with the view to speeding up the economic integration of West Africa;

DETERMINED to provide a legal framework for Joint Border Posts within the Community in order to enhance trade and transit facilitation at national borders of the Member States.

ON THE PROPOSAL of the Expert meeting of Member states held in Grand-Bassam (Côte d'Ivoire) on 22 to 24 October 2012;

ON THE RECOMMENDATION of Seventieth Session of the Council of Ministers held in Abidjan from 20 to 21 June 2013;

HAVING obtained the opinion of the Community Parliament;

HAVE AGREED AS FOLLOWS:

CHAPTER I: DEFINITIONS, OBJECTIVE AND SCOPE OF APPLICATION

Article 1: Definitions

In this Supplementary Act, the following terms shall have the meanings ascribed hereto, unless the context otherwise requires:

"**Act**" means this Supplementary Act / SA …….. /18/07/13.

"adjoining Member States" means Member States that share a border between them at which a Joint Border Post is established in terms of this Act;

"border controls" means any border-related control measures, checks and authorizations, without limitation, provided for in the national laws and regulations of the Member States;

"Commission" means the ECOWAS Commission established by new Article 17 of Supplementary Protocol A/SP.1/06/06 of 14 May 2006 amending the Revised Treaty;

"Common control zone" means the Joint Border Post perimeter within which officers of both adjoining Member States are empowered to effect border controls and includes the exclusive use areas;

"**Community"** means the Economic Community of West African States (ECOWAS) established under Article 2 of the Revised Treaty of 24th July 1993;

"Competent Authorities" means any ministries or other government entities of the Member States assigned responsibilities for border controls by their national laws and regulations;

"**Council"** means the Council of Ministers of the Community established by Article 10 of the Revised Treaty;

"**exclusive use areas**" means those areas of the common control zone dedicated for the exclusive use of each of the adjoining Member States and the Management Authority, such as but not limited to offices, administration areas, electronic systems control rooms and storage warehouses;

"forwarding agents" means any private sector person providing services in the common control zone to the completion of border controls by passengers or freight as provided for in the national laws and regulations of the Member States and shall include but not limited to licensed customs and transport commissionaires, freight forwarding agents, transporters, commercial agents and other professionals of the sector;

"Joint Border Post" means a border post established in terms of Article 3 of this Act at which all traffic utilizing the border post stops only once in each direction of travel and both exit and entry procedures are jointly undertaken by border control officers of the adjoining Member States from within the common control zone;

"Joint Committee" means a bilateral Committee of adjoining Member States established in terms of Article 50 of this Act;

"Journal" means the Official Journal of the Community;

"law enforcement agency" means any agency or person empowered by the national and border control legislation of each Member State to enforce the provisions thereof;

"Management Authority" means the institution mandated by the Community in consultation with the adjoining Member States in terms of Article 53 of this Act to maintain, administer and manage Joint Border Post facilities;

"Member State(s)" means the Member State(s) as defined in paragraph 2 of Article 2 of the Revised Treaty;

"Officer" means a person responsible for conducting border controls in terms of the national laws and regulations of the Member States;

"State of location" means the Member State in whose territory the Joint Border Post is located;

"**Treaty**" means the Revised Treaty of the Community of 24th July 1993 and its subsequent amendments.

Article 2: Objective and scope of application

1) The objective of this Supplementary Act is to make standardized provisions for the establishment and implementation of the Joint Border Posts Concept within the Community and for related matters.

2) This Supplementary Act shall apply, without limitation, to all persons carrying out official border control, facilitation and management functions and those who access a joint border post for purposes of accessing the services therein provided or providing commercial or other services therein. It specifically covers:

a) The establishment and objectives of joint border posts and the configuration of the common control zone from which border controls are effected.

b) The legal principles to be applied in the conduct of joint border controls and functions by officers and forwarding agents of adjoining Member States and outlines the principles governing the exercise of dual jurisdiction by the adjoining Member States in the common control zone.

c) The extra-territorial application of both the border control and criminal laws of the adjoining Member States in the common control zone.

d) The underlying basis for the allocation and use of facilities and equipment in the common control zone for border control and other purposes.

e) The institutional and management arrangements for the joint border posts.

f) General provisions relating to temporary measures, dispute resolution and procedures for amendments and its entry into force.

CHAPTER II: JOINT BORDER POSTS AND COMMON CONTROL ZONES

Article 3: Establishment and objectives of Joint Border Posts

1) The Community shall establish and Member States shall utilize joint border posts (JBPs) at their common borders as herein outlined in this Supplementary Act. They may enter into such multilateral and bilateral arrangements as shall be necessary for purposes of implementing the provisions of this Supplementary Act.

2) The main objective of such joint border posts shall, *inter alia,* be to enhance trade facilitation through the efficient movement of goods, persons and services within the Community and with adjoining regions.

Article 4: Status of the land

1) The land on which joint border post facilities are to be built shall be land belonging to the Community in terms of appropriate instruments of transfer from the Member States to the Community and such facilities shall equally be the property of the Community.
2) Each State of location shall ensure that the joint border post perimeter and its immediate surroundings are kept free of any settlements or activities that may disturb the joint border post operations by way of an appropriate security buffer zone.

Article 5: Establishing, types and arrangement of common control zones

1) The Community shall facilitate the implementation of joint border processing arrangements by establishing and designating common control zones at the respective joint border posts on Community land between adjoining Member States.
2) In accordance with the provisions of this Supplementary Act, the common control zones may, at the discretion of the Community in consultation with the adjoining Member States, be wholly located in the territory of one adjoining Member State or juxtaposed or straddled between the states or in any other mutually agreed arrangement.
3) Such control zones shall be so arranged that, for each direction of travel, border controls shall be carried out by the adjoining Member States from a single stop location and, depending on the arrangement in the common control zone located in the adjoining Member State of entry.

Article 6: Demarcation and security of common control zones

1) The common control zones including access roads thereto shall comprise the specifically demarcated and secured physical areas as shall be more fully described in a document. The contents of the said document shall be mutually agreed upon between the Community and the relevant adjoining Member States.

2) The Community may, in consultation with the adjoining Member States, amend the delimitation of the common control zones contemplated in paragraph 1 of this article within its land or any other land transferred to it by an adjoining Member State. Such amendments shall be communicated to the adjoining Member States in writing and shall come into effect on a date to be mutually agreed upon by the Community and the adjoining Member States. Any such amendments shall form an integral part of the aforementioned document in paragraph 1 of this Article.

Article 7: Exclusive use areas within common control zones

1) The Management Authority shall ensure that exclusive use areas in the common control zones are clearly marked and identified through the display of official signs.

2) The Officers of the adjoining Member States shall be empowered to control entry and exit and keep order within their exclusive use areas within the common control zone. They shall, if the need arises, request assistance from the Management Authority for this purpose.

3) The Officers or members of a law enforcement agency of an adjoining Member state shall not have access to the exclusive use area of the other adjoining Member State, except at the request or with the permission of the Officers of that other adjoining State.

Article 8 : Traffic Control

The competent authorities of the adjoining Member States shall adopt and enforce efficient passenger and vehicle traffic control routes, procedures and traffic rules within and through the common control zones.

Article 9: Synchronized hours of operation

The competent authorities of the adjoining Member States shall adopt synchronized business days and working hours for their respective operations in the common control zones which shall ordinarily be twenty-four (24) hours a day, seven (7) days a week.

CHAPTER III: CONDUCT OF BORDER CONTROLS

Article 10: Powers of Officers to carry out border controls

1) Officers of the adjoining Member States shall be empowered to carry out border controls strictly within the common control zones at the joint border posts mutually established in terms of Article 3 of this Act.

2) Such Officers of the adjoining Member States shall be empowered to exercise border controls within the common control zone in the State of location in accordance with their own national border control laws. For the avoidance of doubt, this includes the exercise of any powers of arrest, search, seizure, detention of persons and things, and all such other powers as may be specifically provided for in their own national border control legislation.

3) For the purpose of enabling Officers of each Member State to carry out their border controls at a joint border post in one or more adjoining States of location in terms of this Act, the border control legislation of each Member State shall mutually apply extraterritorially within the common control zones.

Article 11: Sequence of Controls

1) The exit formalities of the Member State of exit shall be carried out before the entry formalities of the Member State of entry. Such formalities shall, to the extent possible, be carried out jointly and shall be sequenced as may be mutually agreed to by adjoining Member States depending on practical considerations.

2) The Officers of the Member State of entry shall not commence carrying out border controls before the Officers of the Member State of exit have completed their border controls, regardless of the sequencing adopted in terms of paragraph 1 of this Article. Such handover of jurisdiction shall be by way of a final official stamp to that effect or electronic release received by the Member State of entry. For the purposes of this article, any form of relinquishment of such border controls, shall be considered a form of border controls.

3) The Officers of the Member State of exit shall, similarly, no longer carry out their border controls when the Officers of the Member State of entry have begun their own border controls except with the consent of the Officers of the Member State of entry duly authorized to take such decisions, which consent shall not be unreasonably withheld.

Article 12: Joint Controls

1) Notwithstanding the provisions of Article 11 of this Supplementary Act, the respective Officers of the adjoining Member States shall jointly conduct physical inspections and verifications, undertake searches, take samples of cargo and inspect means of transport, or where such is not reasonably practical, in immediate succession. Alternatively, either adjoining Member State may rely on the inspection and search results of the other, which results shall not be unreasonably withheld.

2) In the conduct of such joint controls, adjoining Member States shall ensure optimal use of facilities and equipment provided for such controls through joint and shared usage.

Article 13: Reversal of controls

Where, in exceptional circumstances in the course of border controls, the sequence provided for in Article 11 of this Act is modified or reversed, the Officers of the Member State of entry shall not proceed to conduct detentions, arrests or seizures until the border controls of the Member State of exit are completed. In such a case, the Officers of the Member State of entry shall escort the persons, vehicles, animals, merchandise or other goods for which the border controls of the Member State of exit are not yet completed, to the Officers of that Member State of exit who may proceed to complete their controls and take such measures as they deem necessary.

Article 14: Obligation to readmit

1) Where, after completion of exit formalities, the Member State of entry refuses to admit any persons, vehicles, animals, merchandise, or other goods, or if such persons decide not to pass through the border controls of the Member State of entry, or decide to send or take back any vehicles, merchandise, animals or other goods under their control, the officers of the Member State of exit shall accept back such persons, vehicles, animals, merchandise, or other goods.

2) The competent authorities of the Member State of exit may, however, take any measures to deal with the circumstances outlined in paragraph 1 of this Article in accordance with their national laws and in a manner that does not impose obligations on the Member State of entry.

Article 15: Computerized controls

In carrying out its controls, each Member State shall, to the extent practical, ensure it utilizes computerized controls for all agencies carrying out controls at the joint border post including such systems as the Inter-State Road Transit of Goods system and single window concept which maximize on the use of computerized control systems and procedures that avail electronic information in advance and oblige the simultaneous and coordinated effecting of controls by all agencies with a mandate and interest at the joint border post.

Article 16: Free transfer of money and goods

The officers of the adjoining Member State shall freely transfer any revenue levied on behalf of their Government as well as merchandise and other goods lawfully seized in the common control zone to their own territory.

Article 17: Higher levels of trade facilitation

Nothing in this Act shall prevent adjoining Member States from agreeing to higher levels of trade facilitation at their common borders through, *inter alia*, the integration of their border control structures within or between themselves, including reliance on Officers of one Member State carrying out controls for and on behalf of the other in terms of that other's national laws. The powers to be exercised by such Officers in such circumstances shall be agreed upon between the relevant adjoining Member States in bilateral arrangements which shall be in conformity with the provisions of this Act.

CHAPTER IV: APPLICATION OF BORDER CONTROL LAWS

Article 18: Laws to apply in the same way as in own territory

1) The laws relating to border controls of the adjoining Member States shall apply in the common control zone and shall be put into effect by the Officers of the adjoining Member States in the same way as such laws are effected in their own territories.
2) Breaches of the laws relating to border controls of the adjoining Member States that are detected in the common control zone are subject to the laws of the adjoining Member States as if the breaches had occurred in the adjoining Member States' own territories.

3) Officers of an adjoining Member State may, in terms of their own border control laws, detain, question, search or arrest any person in the common control zone who is undertaking formalities of that adjoining Member State, be they exit or entry formalities. They may, in the course of conducting their border controls, escort such person to the territory of such adjoining Member State.

Article 19: Limitations to application of border control laws

1) Officers of an adjoining Member State shall not, in the common control zone, arrest or detain a person who is undertaking formalities of the other adjoining Member State. In exceptional circumstances where such person's attendance at the office of the said adjoining Member State may be required in order that a statement may be taken, such attendance shall be with the consent and in the presence of the competent authorities of the other adjoining Member State.

2) Nothing in paragraph 1 of this Article shall prevent an Officer of an adjoining Member State from passing on information to the other adjoining Member State relating to any person or goods exiting that other adjoining Member State which information can only be acted upon once such adjoining Member State assumes jurisdiction over such person or goods within the common control zone.

Article 20: Consistent operational procedures

The Member States shall agree to operating procedures consistent with the principles contained in this Act to facilitate the application of their border controls. Without limitation to the generality of this Article, such procedures shall, *inter alia*, include harmonization of documents, mandatory pre-clearance of specified local importation and transit goods and entrenchment of existing arrangements for locals living around the common border. Such procedures shall be outlined in an Operating Procedures Manual.

Article 21: Information and Communication Technologies

The Member States shall further agree to comprehensive mandatory Information and Communication Technologies (ICT) requirements at their common borders to enable seamless, reliable and effective data exchange of high integrity and appropriate format and language within and between the various border control agencies of the Member States operating at the joint border posts. Such ICT platforms shall include reliable and transparent cross border transit systems, cargo clearing and tracking systems within the territories of the Member States.

CHAPTER V: APPLICATION OF CRIMINAL LAWS

Article 22: Criminal acts in terms of border control laws

1) Any act or omission in terms of the border control laws of a Member State that occurs within the common control zone at a joint border post—

a. by a citizen or resident or any other person who has not completed the formalities and procedures for exit or entry of that Member State; and

b. that is an act or omission which, if it had occurred within the territory of such Member State, would have constituted an offence against the laws of the said Member State, shall be regarded as if it had occurred within the territory of such Member State.

2) The law enforcement agencies of the adjoining Member States shall have jurisdiction to carry out their border control activities in the common control zone or assist other border control Officers in effecting their controls to the extent such is mandated by their national laws.

3) For the purpose of determining which court in the Member State has jurisdiction to try an offence referred to in paragraph 1 of this Article the offence shall be deemed to have been committed within the area of jurisdiction of the competent court nearest to the place where the act or omission constituting the offence occurred.

Article 23: Criminal acts in terms of non border control laws

1) Subject to Article 7(3) of this Act, the law enforcement agencies of the adjoining Member States shall be equally responsible for maintaining peace, security, law and order, and dealing with non-border control related criminal offences committed in the control zone.

2) Such equal responsibility shall, depending on the arrangement governing the joint border post and at the mutual discretion of the adjoining Member States in consultation with the Community, either be shared, or joint, or delegated to one adjoining Member State or some other arrangement as may be agreed between the adjoining Member States in consultation with the Community.

3) The rules of operation of the law enforcement agencies in carrying out their responsibilities in terms of this Article shall be agreed to by the adjoining Member States and specified in a manual.

4) Nothing in this Act shall be interpreted as restricting the jurisdiction of the Member States to maintain law and order and to prosecute under its laws any offences committed within its territory beyond the joint border post territory.

Article 24: Limitations to application of criminal laws

Notwithstanding Article 19 of this Act, the law enforcement agencies of an adjoining Member State may in the common control zone, upon giving notice to the competent authorities, arrest a person undertaking exit or entry formalities of the other adjoining Member State provided:

1) such arrest is authorized by a warrant issued by an authority or court of competent jurisdiction in that adjoining Member State; or

2) the name or description or both, together with particulars of the offence of which there are reasonable grounds for suspecting such person to have committed, have been made available by the competent authorities of that adjoining Member State to the competent authorities of the other Member State.

Article 25: Assistance and joint operations to combat crime

1) The law enforcement agencies of one adjoining Member State may, upon request and to the extent such is mandated by their national laws, assist those of the other adjoining Member State in effecting their mandated controls in the common control zone including, without limitation, the transfer of suspects and exhibits, the provision of secure holding cells and related facilities.

2) Adjoining Member States may agree to parameters for carrying out security related joint border patrols beyond the common control zones and within defined limits in each other's territory consistent with the principles contained in this Act to facilitate the combat of cross-border crime.

CHAPTER VI: CONDUCT OF OFFICERS

Article 26: Free movement of officers in the Common Control Zone

1) Officers of the adjoining Member States shall be permitted to move freely in the common control zone for purposes of executing their official functions and duties as mandated in their own national laws.

2) In carrying out their official functions and duties, they shall not be required to produce passports or visas and may pass through border controls of the other adjoining Member State simply by producing appropriate evidence of their identity and status.

Article 27: Number of Officers, names and designation

1) The adjoining Member States shall agree on the number of Officers that may be tasked to undertake duties in the common control zone, which number shall take into account the passenger and vehicle volumes at any peak point in time. The number may be varied from time to time at the discretion of each adjoining Member State.

2) The competent authorities of the adjoining Member States shall inform each other, in writing, of the names and designation of the Officers that will be working within the common control zone. In the event of any changes, information of such changes shall be communicated promptly to the other adjoining Member State.

Article 28: Identification of Officers

Officers of the adjoining Member States may wear their official uniform or visible distinctive insignia and shall at all times visibly display their officially issued identification badges in the common control zone.

Article 29: Carrying and use of arms

1) Officers of the adjoining Member States may, in the exercise and for purposes of their official functions and duties in the common control zone, carry appropriate arms where such is authorized under their national laws.

2) Law enforcement agencies with responsibilities in terms of Article 23 of this Act may, for purposes of executing such enforcement responsibilities, carry appropriate arms as authorized in their national laws, in the part of the common control zone over which they have jurisdiction in terms of this Act.

3) Notwithstanding the provisions of paragraph 2 of this Article in circumstances where a show or use of arms is required, the Officers of an adjoining Member State may enlist the assistance of the law enforcement agents of the other Member State, which assistance shall not be unreasonably denied. The rules governing the nature and extent of such assistance shall be part of the Rules of Operation issued in terms of Article 23(3) of this Act.

4) Nothing in this Act shall be construed as limiting the carriage of appropriate arms by officers of an adjoining Member State in that State's exclusive use areas within the common control zone.

5) The use of arms in the common control zone in terms of this Article shall be strictly restricted to circumstances requiring self defensive action or action in defense of other persons as provided for in the laws of each adjoining Member State.

Article 30: Communication and liaison at joint border post

1) Each adjoining Member State shall appoint an Officer serving at the joint border post to act as the focal point and main contact person for communication with the competent authorities of the other adjoining Member State.

2) Nothing in this Article shall prevent Officers representing individual border control agencies of an adjoining Member State from collaborating and consulting with Officers from their counterpart and other agencies of the other adjoining Member State during the course of the day-to-day performance of their functions and duties in the common control zone.

Article 31: Protection and assistance to Officers

1) An adjoining Member State shall grant the same protection and assistance as it grants its own Officers, to Officers of the other adjoining Member State in the exercise of their functions and duties, in the common control zone areas where it has exclusive responsibility and jurisdiction in terms of Article 23 of this Act.

2) In the circumstances anticipated in paragraph 1 of this Article, the laws of an adjoining Member State relating to the protection of its own Officers in the exercise of their functions shall apply equally to the punishment of offences committed against Officers of the other adjoining Member State in the exercise of their functions.

3) The Officers of an adjoining Member State shall however, in the course of their functions in the common control zone in terms of this Act, be immune from the jurisdiction of the other adjoining Member State.

Article 32: Compensation for loss or injury

Any claim for compensation for loss, injury or damage caused by or to Officers of the adjoining Member States in the course of their functions in the common control zone shall be subject to the laws and jurisdiction of their respective adjoining Member States as if the circumstance giving rise to the claim had occurred in the respective territories of the adjoining Member States.

Article 33: Prosecution for offences

Officers of the adjoining Member States may be prosecuted for any offence committed in the common control zone in the course of their functions. In such cases, they shall come under the jurisdiction of their own Member State, as if the offences had been committed in such Member State.

Article 34: Investigation of offences, witnesses

1) The law enforcement agents of an adjoining Member State with exclusive responsibilities and jurisdiction in certain areas in the common control zone shall take such steps as deemed necessary to investigate, record and communicate to the competent authorities of the other adjoining Member State all the particulars and evidence of any alleged offence committed in such areas in the common control zone by an Officer of the other adjoining Member State as contemplated in Article 33 above. The laws of the other adjoining Member State to which the said Officer belongs shall apply to such offences.

2) The Officers of an adjoining Member State shall be competent witnesses in proceedings of any offences committed in the common control zone, by an Officer of the other adjoining Member State or members of the public, to which they are investigating officers or percipient witnesses where such offences are tried before the courts of competent jurisdiction or other quasi-legal or administrative structures of the other adjoining Member State.

CHAPTER VII: FACILITIES IN THE COMMON CONTROL ZONE

Article 35: Provision of facilities in the common control zone. The Management Authority, appointed in terms of Article 53 below, shall provide each adjoining Member State comparable office and other accommodation within the joint border post facilities located in the common control zone on such terms and conditions relating to all costs of such occupation and maintenance of such facilities as shall be specified by the Community. It shall be the intent of the Community to equitably allocate the facilities to adjoining Member States on a need basis. Staff facilities designed for shared occupation and use by the adjoining Member States shall be shared between the Officers of the adjoining Member States.

Article 36: Free transfer of equipment for official use

Subject to proper declarations being made to the Management Authority and appropriate inventories being kept, all equipment which is necessary to enable the Officers of the adjoining Member States to carry out their functions in the common control zone shall be freely transferable within the control zone and shall not be regarded as imports or exports on entry or exit.

Article 37: Communication links to own territory

1) The Officers of the adjoining Member States shall, whilst exercising their functions in the common control zone, be authorized to communicate with their national authorities and to establish such communication links to their own territories as shall be required for this purpose including but not limited to the extension of their local telecommunication and other networks into the common control zone.

2) To this end, the authorities of the State of location shall, where necessary, assist the Officers of the adjoining Member State to obtain telecommunications and other communication services subject to commercial costs and conditions normally prevailing.

Article 38: Harmonization of structures and facilities

1) The Community shall harmonize the structures and facilities in the common control zones so as to achieve uniformity to the extent practically possible, through coordinated designs and procurement of related construction, maintenance and management services.

2) The Community shall consult both public and private sector stakeholders of Member States for input as to their requirements in the common control zones.

Article 39: Public use facilities

Notwithstanding any contrary provisions in this Act, the Community shall ensure that adequate and appropriate facilities are provided within the common control zones to the public that utilize the joint border post including, but not limited to, sanitary, banking and other essential facilities.

CHAPTER VIII: CONDUCT OF FORWARDING AGENTS

Article 40: Access to common control zones by forwarding agents

Forwarding agents of adjoining Member States shall be granted appropriate access to the common control zones for official purposes. In carrying out their functions, they shall not be required to produce any passports or visas, but shall access the control zones by way of appropriately issued identity and status cards.

Article 41: Vetting, registration, names and particulars

Each Member State shall, in consultation with the national forwarding agents associations, agree on the criteria for the vetting, registration and the numbers of forwarding agents that shall be afforded access to the common control zones in terms of this Act. The competent authorities of each Member State shall submit, in writing, the names and full particulars of the forwarding agents that will be working within the common control zone at any joint border post. In the event of any changes, information of such changes shall be communicated promptly to the other adjoining Member State.

Article 42: Identification of forwarding agents

Forwarding agents may wear their agency uniforms and shall at all times visibly display their officially issued identification badges in the common control zones.

Article 43: Laws applicable in the common control zone

1) Forwarding agents shall, at all times in the exercise of their functions in the common control zones, provide their services in accordance with and be subject to the laws of the adjoining Member State in which they are registered.

2) Notwithstanding the provisions of this Article, forwarding agents shall be subject to the jurisdiction of the adjoining Member State with exclusive responsibilities and jurisdiction in certain areas in the common control zone for any non-border control criminal acts or omissions in such areas.

Article 44: Facilities to be allocated in common control zone

The **Management** Authority shall, in consultation with the forwarding agents, determine the facilities which it shall accord to forwarding agents of the adjoining Member States in the common control zone including the applicable terms and conditions thereof.

Article 45: Free transfer of equipment for official use

Subject to proper declarations being made to the Management Authority and appropriate inventories being kept, all equipment which is necessary to enable the forwarding agents of the adjoining Member States to carry out their functions in the common control zone, shall be freely transferable within the common control zone and shall not be regarded as imports or exports on entry or exit.

Article 46: Communication with national offices

Forwarding agents of the adjoining Member States shall, whilst in the exercise of their functions in the common control zone, be authorized to communicate with their national offices and to establish such communication links as may be required for this purpose on their own accord and cost.

Article 47: Transfer of money

Forwarding agents of the adjoining Member States shall freely transfer any sums of money received for facilitation services in the common control zone to their own territory subject to their adjoining Member State's exchange control laws and regulations.

Article 48: Access to electronic control systems

For purposes of simplifying and expediting the clearance of commercial traffic through the joint border post, the adjoining Member States shall migrate from manual entry systems to electronic control systems that are easily accessible for use by the forwarding agents and introduce appropriate and mandatory pre-clearance procedures for cargo.

CHAPTER IX: INSTITUTIONAL ARRANGEMENTS

Article 49: Community oversight institution and responsibilities

1) The Commission shall coordinate and monitor the establishment and implementation of the joint border posts concept within the Community.

2) Without prejudice to the generality of paragraph 1 of this Article the Commission shall:

   a) coordinate the establishment of joint border posts within the Community to ensure uniformity of approach in the joint border post concept between adjoining Member States;

   b) monitor the utilization of joint border posts at the various borders within the Community to ensure full compliance with the provisions of this Act;

   c) set specific programs for the establishment and implementation of joint border controls at existing and future border posts within the Community;

   d) initiate policies for the improvement of the efficiencies of Community joint border posts and any related trade facilitation matters;

   e) set and monitor performance standards for which bilateral joint border post institutions shall be held responsible and accountable;

   f) resolve any issues referred to the Commission by the Joint Committees to be established in terms of Article 50 of this Act;

   g) account and be responsible to the Council through the appropriate institutions of the Community for all issues relating to the provisions of this Act;

   h) in the exercise of its functions in terms of this Act, be subject to the general direction of the Council and perform such other functions as may be prescribed by the Council.

   i) in the exercise of its functions in terms of this Act, the Commission may engage the services of any such persons from within or outside the Community as it deems appropriate on any matter under its responsibility.

Article 50: Establishment and composition of the Joint Committees

1) A Joint Committee comprising equal numbers from each adjoining Member State of representatives of the competent authorities and representatives of forwarding agents of the adjoining Member States shall be established to oversee the implementation and operations of joint border posts between any adjoining Member States.

2) The adjoining Member States shall mutually agree as to the level of representation and shall determine the number of members of the Joint Committee. Each adjoining Member State shall be responsible for the nomination of its representatives who shall constitute the Joint Committee in accordance with its existing procedures for such nominations.

3) Notwithstanding the provisions of this Article, adjoining Member States may agree in consultation with the Commission, to utilize any existing appropriate national trade facilitation structures to carry out the responsibilities of the Joint Committee.

Article 51: Responsibilities of the Joint Committees

1) The Joint Committees shall determine the administrative measures necessary for the implementation of the joint border posts concept by adjoining Member States. They shall resolve any difficulties that may arise from such implementation including the power to constitute bilateral administrative and operations sub-committees comprising Officers of the adjoining Member States directly involved in undertaking border controls at the joint border posts.

2) Operatives of the forwarding agents at the joint border posts shall be co-opted into such administrative and operations sub-committees to ensure valuable contribution and feedback from the relevant private sector stakeholders.

3) Each Joint Committee shall monitor and access the implementation of joint border posts concept under its jurisdiction and routinely report on progress and other relevant matters to the Commission through appropriate national and Community structures.

Article 52: Meetings and procedures of the Joint Committees

1) The Joint Committees shall meet as often as required and alternate the locality of the meetings between the territories of the adjoining Member States, unless agreed otherwise.

2) The meetings of the Joint Committees shall be chaired by an Officer representing the adjoining Member State in whose territory the meeting is held, unless otherwise agreed.

3) The Joint Committees shall regulate their own rules of procedure at such meetings.

4) The Joint Committees shall adopt their decisions by consensus. In the event of failure to reach consensus, the Joint Committees shall first refer the matter for mutual resolution to existing bilateral conflict resolution mechanisms before referring the matter for resolution by the Commission.

5) Each Member State shall take all necessary administrative, financial and other measures to ensure the effective implementation of the joint border posts concept by the Joint Committees, including without limitation, the provision of adequate resources for the performance of their functions.

CHAPTER X: JOINT BORDER POSTS MANAGEMENT ARRANGEMENTS

Article 53: Appointment of Management Authorities

1) The Community, in consultation with the adjoining Member States, shall appoint a Management Authority for each joint border post. Such Management Authority may be one of the adjoining Member States, or a Management Committee composed of competent authorities of the adjoining Member States, or a private sector management contractor or a joint public and private sector management authority or some other body contracted by the Community in consultation with the adjoining Member States.

2) The appointment of a Management Authority shall be in terms of a specific legal instrument which shall be in conformity with the provisions of this Act.

Article 54: Responsibilities of a Management Authority

1) Without limiting the generality of this Article, the responsibilities and powers of a Management Authority may include general administration of the joint border post, maintenance of the facilities, provision and control of security services, provision and maintenance of operational and administrative equipment and any other responsibilities the Community may deem appropriate.

2) The scope, nature, powers, methods of carrying out such responsibilities and related costs shall be fully defined in the specific legal instrument appointing such Management Authority in terms of Article 53 of this Act.

CHAPTER XI: GENERAL AND FINAL PROVISIONS

Article 55: Temporary Measures

1) This Act shall not affect the rights of any Member State to take temporary measures in the interests of defence and security, public safety, public order, economic interests of the Member State, public morality, public health, and any other circumstances of a similar nature.

2) Such temporary measures may include, but not limited to, the reversal of the sequence or location of controls or the temporary closure of the joint border post by such Member State.

3) The adjoining Member State taking any temporary measures in terms of paragraph 1 of this Article shall, prior to taking such temporary measures, inform the other adjoining Member State without delay through the exchange of diplomatic notes and refer the matter to the relevant Joint Committee for the expeditious resolution of the circumstances leading to the temporary measures.

4) In circumstances where prior notification shall not be practical, the adjoining Member State taking such temporary measures shall simultaneously inform the other adjoining Member State of the temporary measures imposed through the exchange of diplomatic notes and refer the matter to the relevant Joint Committee for the expeditious resolution of the circumstances leading to the temporary measures.

5) Each adjoining Member State shall take responsibility to expeditiously inform its Officers working in the affected control zones about the temporary measures imposed.

Article 56: Dispute Resolution

1) Any dispute that may arise in the interpretation, application and implementation of this Act and any subsidiary Regulations shall be resolved by and between the Member States amicably and in the spirit of friendship and co-operation.

2) The Member States shall, in resolving such disputes, primarily be guided by the need to give effect to the paramount objectives of this Act.

3) Any dispute between the Member States in terms of this Act that remains unresolved for a period of more than one hundred and eighty (180) days from the time such dispute is declared shall be referred for settlement in accordance with the provisions of the dispute settlement procedure stipulated in Article 76 of the Treaty.

Article 57: Amendment and review

1) Any Member State, the Council of Ministers and the Commission may submit proposals for the amendment and review of this Act.

2) All amendment and revision proposals shall be submitted to the Commission for onward communication to the Member States not later than thirty (30) days after reception. The Council of Ministers shall examine the amendment and revision proposals on expiry of the

   three (3) months period that is ordinarily granted to the Member States to enter their observations.

3) The amendment and revision shall be adopted by the Council of Ministers and submitted to the Authority of Heads of State and Government for approval and signature. Such amendments and revisions shall enter into force, in conformity with the provisions of Article 58 of this Act.

Article 58: Entry into force

1. This Supplementary Act shall enter into force upon signature and publication. Consequently, signatory Member States shall embark on the implementation of its provisions once it enters into force.

1. This Supplementary Act shall be attached as an annex to the ECOWAS Treaty to which it shall be an integral part.

Article 59: Publication

1. This Supplementary Act shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature by the Heads of State and Government.
2. It shall also be published by each Member State in its Official Journal within the same time-frame as that specified above, after its notification by the Commission.

Article 60: Depository Authority

This Act shall be deposited with the ECOWAS Commission which shall transmit certified true copies thereof to all the Member States and shall register it with the African Union, the United Nations Organizations and such other organizations as may be determined by Council, in accordance with Articles 83, 84 and 85 of the Treaty.

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

DONE AT ABUJA THIS 18TH DAY OF JULY 2013

IN ONE ORIGINAL COPY, IN ENGLISH, FRENCH AND PORTUGUESE THE THREE TEXTS BEING EQUALLY AUTHENTIC

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COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

FORTY-THIRD ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

Abuja, 17 – 18 July, 2013

SUPPLEMENTARY ACT A/SA.2/07/13 ON THE ECOWAS ENERGY EFFICIENCY POLICY

THE HIGH CONTRACTING PARTIES,

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

MINDFUL of Article 28 of the ECOWAS Treaty relating to the coordination and harmonization of the Energy Policy of the Members States;

MINDFUL of Decision A/DEC.3/5/82 relating to the adoption of the ECOWAS Energy Policy, adopted by the Authority of Heads of State and Government in 1982;

MINDFUL of Decision A/DEC.17/01/03 of the Authority of ECOWAS Heads of State and Government relating to the ECOWAS Energy Protocol;

MINDFUL of Decision A/DEC.24/01/06 relating to the ECOWAS/UEMOA Regional Policy on Access to Energy Services for Populations in Rural and Suburban Areas for Poverty Reduction towards the attainment of the Millennium Development Goals (MDGs);

MINDFUL of Regulation C/REG. 23/11/08 of the sixty-first Council of Ministers relating to the establishment of the ECOWAS Centre for Renewable Energy and Energy efficiency (ECREEE);

CONSIDERING the project document relating to the establishment of ECREEE, officially adopted by ECOWAS and its Partners;

MINDFUL of the Supplementary Act A/SA.9/12/08 of December 2008 relating to the Headquarters of ECREEE;

MINDFUL of the Enabling Rule PEC/ER/1/01/11 relating to the organisation and the activities of ECREEE;

MINDFUL of the objectives of the UN Sustainable Energy for All (SE4ALL) Initiative which aims at universal access to modern energy services by 2030; doubling the rate to improve energy efficiency worldwide; doubling the share of renewables in the global energy mix;

AWARE that renewable energy and energy efficiency solutions can address the challenges of energy access, energy security and climate change mitigation simultaneously and effectively in the ECOWAS region;

AWARE of the urgency to address the various existing barriers hindering the exploitation of the manifold renewable energy potentials in the ECOWAS region;

AWARE that renewable energy technologies offer increasingly interesting opportunities to meet the growing urban electricity demand and to boost access to sustainable energy services in rural areas;

AWARE that demographic growth and urbanization have resulted in an increased demand for electricity and wood-fuel;

AGREEING that there is emerging awareness on the technical and economical feasibility of exploiting the regions huge renewable energy potential;

AWARE that market trends indicate a consistent price reduction for renewable energy technologies making them more competitive and offering opportunities for the diversification of the Region's energy sources;

CONVINCED that Energy is a resource, a collective service, and at the same time, a production factor of multisectorial dimension that lies at the heart of any socio-economic development process and essential for meeting fundamental human needs (food, health, education, etc.);

AWARE of the need of improving energy security, increase access to modern energy services and support the region's economic and social development in an environmentally benign manner through the promotion and use of renewable energy and energy efficient technologies in ECOWAS Member States;

ON THE RECOMMENDATION of the Seventieth Session of the Council of Ministers, held in Abidjan on the 20th and 21st June 2013;

AGREE AS FOLLOWS:

Article 1:

The Energy Efficiency Policy and Action Plan for implementation of the energy efficiency policy are hereby adopted.

Article 2

1. The overall objective of the Energy Efficiency policy by 2020 is to improve energy efficiency in the ECOWAS Region to levels of international standards.

2. The specific target of the regional policy is:

   (i) to implement efficiency measures that free-up 2 000 MW of power generation capacity by 2020;

   (ii) phase out inefficient incandescent lamps by 2020;

   (iii) reduce average losses in electricity distribution from the current levels of 15 - 40% to the world standard levels of below 10%, by 2020;

(iv) achieve universal access to safe, clean, affordable, efficient and sustainable cooking for the entire population of ECOWAS, by 2030;

(v) adopt region-wide standards and labels for major energy equipment by end of 2014;

(vi) develop and adopt region-wide efficiency standards for buildings (e.g. building codes);

(vii) Create instruments for financing sustainable energy, including carbon finance, by the end of 2013, and in the longer term, establish a regional fund for the development and implementation of sustainable energy projects;

Article 3:

In order to attain the objectives of the Energy Efficiency Policy, five (5) priority regional initiatives shall be launched. These include:

i. ECOWAS Initiative on Efficient Lighting
ii. ECOWAS Initiative on High Performance Distribution of Electricity
iii. ECOWAS Initiative on Safe, Sustainable and Affordable Cooking
iv. ECOWAS Standards and Labelling Initiative
v. ECOWAS Initiative on Financing Sustainable Energy

Article 4:

ECOWAS and its Member States shall implement the Energy Efficiency Policy, which is one of the objectives of the ECOWAS/UEMOA White Paper to increase access to energy services for populations in rural and peri-urban areas.

Article 5:

The ECOWAS Commission shall mobilise the necessary financial resources for the implementation of the Action Plan of the Policy on Energy Efficiency.

Article 6:

The **ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE)** is mandated to ensure effective coordination of Member States and Development Partners for the implementation of the ECOWAS Policy on Energy Efficiency.

Article 7: Publication

This Supplementary Act shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of Authority. It shall also be published by each Member State in its Official Gazette within the same time frame.

Article 8: Entry into Force

1. This Supplementary Act shall enter into force upon its publication. Consequently, signatory Member States and the Institutions of ECOWAS undertake to commence the implementation of its provisions on its entry into force;

2. This Supplementary Act is annexed to the ECOWAS Treaty of which it is an integral part.

Article 9: Depository Authority

This Supplementary Act shall be deposited with the Commission which shall transmit certified true copies thereof to all Member States and shall register it with the African Union, the United Nations and such other organizations as Council may determine.

IN WITNESS WHEREOF, WE, THE HEADS OF STATE AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES, HAVE SIGNED THIS SUPPLEMENTARY ACT

DONE AT ABUJA THIS 18TH DAY OF JULY 2013

IN SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES, ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC

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FORTY-THIRD ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

Abuja, 17 – 18 July, 2013

SUPPLEMENTARY ACT A/SA.3/07/13 ON THE ECOWAS RENEWABLE ENERGY POLICY

THE HIGH CONTRACTING PARTIES;

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

MINDFUL OF Article 28 of the said Treaty relating to the coordination and harmonization of the Energy Policy of the Members States;

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MINDFUL of Decision A/DEC.24/01/06 relating to the ECOWAS/UEMOA Regional Policy on Access to Energy Services for Populations in Rural and Suburban Areas for Poverty Reduction towards the attainment of the Millennium Development Goals (MDGs);

MINDFUL of Regulation C/REG. 23/11/08 of the sixty-first Council of Ministers relating to the establishment of the ECOWAS Centre for Renewable Energy and Energy efficiency (ECREEE);

MINDFUL OF the objectives of the UN Sustainable Energy for All (SE4ALL) Initiative which aims at universal access to modern energy services by 2030; doubling the rate to improve energy efficiency worldwide; doubling the share of renewables in the global energy mix.

AWARE that renewable energy and energy efficiency solutions can address the challenges of energy access, energy security and climate change mitigation simultaneously and effectively in the ECOWAS region;

AWARE of the urgency to address the various existing barriers hindering the exploitation of the manifold renewable energy potentials in the ECOWAS region;

AWARE that renewable energy technologies offer increasingly interesting opportunities to meet the growing urban electricity demand and to boost access to sustainable energy services in rural areas;

AWARE that demographic growth and urbanization have resulted in an increased demand for electricity and wood-fuel;

AGREEING that there is emerging awareness on the technical and economical feasibility of exploiting the regions huge renewable energy potential;

AWARE that market trends indicate a consistent price reduction for renewable energy technologies making them more competitive and offering opportunities for the diversification of the Region's energy sources;

CONVINCED that Energy is a resource, a collective service, and at the same time, a production factor of multisectorial dimension that lies at the heart of any socio-economic development process and essential for meeting fundamental human needs (food, health, education, etc.);

DESIROUS therefore of improving energy security, increase access to modern energy services and support the region's economic and social development in an environmentally benign manner through the promotion and use of renewable energy and energy efficient technologies in ECOWAS member states;

ON THE RECOMMENDATION of the Seventieth Session of the Council of Ministers, held in Abidjan on the 20 and 21st June 2013;

AGREE AS FOLLOWS:

ARTICLE 1

The attached Regional Renewable Energy Policy and corresponding Action Plan for implementation are hereby adopted.

ARTICLE 2

The Member States and ECOWAS shall implement the Regional Renewable Energy Policy with the objective of contributing to the achievement of universal access to sustainable energy services in the ECOWAS region by 2030.

The specific targets of the regional policy are:

1. For grid-connected renewable energy:

   - Increase the share of renewable energy in the overall electricity mix, including large hydro, to 35% by 2020 and 48% by 2030;

   - Increase the share of renewable energy in the overall energy mix, excluding large hydro, to 10% by 2020 and 19% by 2030. This will lead to the installation of 2,424 MW renewable energy generation capacity from wind, solar, bioenergy and small scale hydro power by 2020 and to 7,606 MW by 2030.

2. For decentralized renewable energy solutions:
   - Increase the share of the rural population served by decentralized renewable electricity services (e.g. mini-grids and stand alone systems) to 22% by 2020 and 25% by 2030;

3. For domestic applications:

   - Ensure universal access to Improved cook-stoves to 100% by 2020;

   - Increase the share of the population served with modern fuel alternatives, including LPG, for cooking to 36% by 2020 and 41% by 2030;

- Increase the share of efficient charcoal production to 60% by 2020 and 100% by 2030;

- Increase the share of Solar Water Heating (SWH) technologies for sanitary hot water and preheating for commercial and industrial processes as prescribed in the attached policy document.

- Introduce blending ratios for Ethanol/bio-diesel in transport fuels of 5% by 2020 and 10% by 2030;

- Conduct research on the use of ethanol and other fuels as domestic cooking fuels:

- Prepare a separate regional policy for sustainable use of bio-energy, including bio-fuels and waste to power, to be adopted by the ECOWAS Ministers in charge of energy:

- Create instruments for financing sustainable energy, including carbon finance, by the end of 2013, and in the longer term, establish a regional fund for the development and implementation of sustainable energy projects;

4. For regional manufacture of renewable energy equipment:

- Ensure that 7% of the Renewable Energy equipment, by value, installed in 2020 is regionally manufactured. This proportion should reach 20% by 2030.

ARTICLE 3 : ACTION PLAN FOR THE IMPLEMENTATION OF THE POLICY

In order to obtain the objectives of the regional Renewable Energy Policy, the following actions will be implemented:

- Secure a coherent, efficient and flexible legal, institutional and regulatory framework in order to develop consistency between the regional and the national renewable energy policies;
- Each Member State has a National Renewable Energy Policy (NREP) with an associated implementation strategy and a five year rolling action plan and necessary budgetary allocation by 2014;

- Make renewable energy and hardware production an attractive business for private investors/entrepreneurs;
- Develop capacity for national officials, and technical experts on the design, implementation and operation of Renewable Energy applications;
- Work on financial Intermediation, seeking a larger involvement of the private industrial and banking sector in the renewable energy sector;
- Promote Advocacy, Awareness and Knowledge Management through ECREEE Regional Observatory for Renewable Energy and Energy Efficiency;
- Take action as described in the detailed action plan of the attached renewable energy policy.

ARTICLE 4

The ECOWAS Commission shall mobilise the necessary financial resources for the implementation of the Action Plan of the Renewable Energy Policy.

ARTICLE 5

The ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE) is mandated to ensure the implementation of the policy and effective coordination of Member States and Development Partners.

ARTICLE 6: PUBLICATION

This Supplementary Act shall be published by the Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of Authority. It shall also be published by each Member State in its Official Gazette within the same time frame.

ARTICLE 7: ENTRY INTO FORCE

1. This Supplementary Act shall enter into force upon its publication. Consequently, signatory Member States and the Institutions of ECOWAS undertake to commence the implementation of its provisions on its entry into force;

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ARTICLE 8: DEPOSITORY AUTHORITY

This Supplementary Act shall be deposited with the Commission which shall transmit certified true copies thereof to all Member States and shall register it with the African Union, the United Nations and such other organizations as Council may determine.

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ECOWAS Renewable Energy Policy (EREP)

ECREEE

Developed with technical assistance of:

Regional Centre for Renewable Energy and Energy Efficiency
Centre Régional pour les Energies Renouvelables et l'Efficacité Energétique
Centro Regional para Energias Renováveis e Eficiência Energética
www.ecreee.org

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ECOWAS Renewable Energy Policy (EREP)
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List of Abbreviations

ADC	Austrian Development Cooperation
ADA	Austrian Development Agency
AECID	Agencia Española de Coopéracion Internacional para el Desarrollo (Spanish International Cooperation Agency for Development)
AfDB	African Development bank
AFD	French Development Agency
CEB	Benin Electric Community
CILSS	Comité permanent Inter-Etats de Lutte contre la Sécheresse dans le Sahel
CLSG	Cote d'Ivoire, Liberia, Sierra Leone, Guinea
CLUB-ER	Network of African Agencies and Structures in charge of Rural - Electrification
CSP	Concentrated Solar Power
DDO	Distillate Diesel Oil
DSO	Distribution system operator
ECOWAS	Economic Community of West African States
EDG	Electricity of Guinea
ECREEE	ECOWAS Regional Centre for Renewable Energy and Energy Efficiency
EEEP	ECOWAS Energy Efficiency Policy
EREP	ECOWAS Renewable Energy Policy
ERERA	ECOWAS Regional Electricity Regulatory Authority
FIT	Feed in Tariff
GEF	Global Environmental Facility
GW	Giga Watt
GWh	Giga Watt hour
IPP	Independent Power Producer
IRED	Regional Initiative for Sustainable Energy
MS	Member States (ECOWAS)
MW	Mega Watt
NFI	National Focal Institutions
MWh	Mega Watt hour
NREP	National Renewable Energy Policy
ODA	Official Development Assistance
OMVG	Organisation de mise en valeur du fleuve Gambie
OMVS	Organisation de mise en valeur du fleuve Senegal
RE	Renewable Energy
RET	Renewable Energy Technologies
PPA	Power Purchase Agreement
PPP	Public-Private Partnership
PRBE	Regional Programme for Biomass Energy
PREDAS	Regional Programme for the Promotion of Domestic and alternative energies in the Sahelean region
PV	Photovoltaic
RREP	Regional Renewable Energy Policy
REEP	Regional Energy Efficiency Policy
RMO	Regional Market Operator
RTSO	Regional Transmission System Operator
SSHP	Small Scale Hydropower
TSO	Transmission System Operator
UNIDO	United Nations Industrial Development Organization
UNDP	United Nations Development Programme
WA	West Africa
UEMOA	West African Economic and Monetary Union
WAPP	West African Power Pool
WB	World Bank

Definitions

Coverage rate:	% of the population living in areas where the service is available
Access rate:	% of the considered population which is effectively connected to the considered service
Dispersion rate:	N° of electrified localities / total localities
Woodfuel:	firewood and charcoal
RETScreen:	Excel-based clean energy project analysis software tool that helps decision makers to determine the technical and financial viability of potential renewable energy, energy efficiency and cogeneration projects
HOMER:	Computer model that simplifies the task of evaluating design options for both off-grid and grid-connected power systems for remote, stand-alone and distributed generation (DG) applications

Executive summary

The purpose of the ECOWAS Regional Renewable Energy Policy (EREP) is to ensure increased use of renewable energy sources such as solar, wind, small-scale hydro and bioenergy for grid electricity supply and for the provision of access to energy services in rural areas. The EREP scenario will complement other important conventional sources for power production (e.g. large hydro and natural gas). The policy primarily focuses on the electricity sector, but also considers some additional issues regarding the use of heat in the domestic energy sector and the potential production of biofuels. The gender-balanced policy aims also at promoting job creation and business development throughout the value chain of renewable energy technologies (e.g. manufacturing, installation and construction, operation and maintenance).

Rationale for EREP

The EREP, in combination with the ECOWAS Energy Efficiency Policy (EEEP) responds to the severe energy crisis in the ECOWAS region. The countries face the challenges of energy poverty, energy security and climate change mitigation simultaneously. The situation is characterised particularly by:

- A large volume of suppressed demand (7 to 10 TWh from 2006 to 2010)
- A general poor access to electricity (40% in average, but for many countries less than 20%), a deficit that is even more pronounced for rural areas
- An unsustainable woodfuel supply that no longer meets the growing demand leading to an overexploitation of the wood resources and for some countries to deforestation.

As the region is endowed with large potentials of renewable energy resources, and as renewable energy technologies are approaching grid parity in certain circumstances, the ECOWAS region stands today at the threshold of a new regional power supply concept based on large bulk power generation provided and distributed by the West African Power Pool (WAPP) and on a substantial contribution provided by renewable energy options financed by the private sector and private banking institutions. Furthermore, under the coordination of the ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE) some ECOWAS Member States have already developed renewable energy policies and strategies and the EREP wishes to take advantages of these front-liners.

The EREP takes into account the efforts already deployed by the WAPP through the emergence of a regional power market and by the PREDAS project in the CILSS countries, in particular:

- For electric power: the goal is to cater for short-term current national power supply deficits with renewable energy options becoming part of a long-term perspective and to promote access in rural areas.
- For wood energy: the focus will be on the technological aspects having significant positive impacts on the woodlands (improved stoves and carbonisation) and on awareness creation.
- For biofuels: the policy wishes to capitalise on the achievements of some countries (Mali, Ghana, Burkina Faso, and Senegal).

Added value of a regional policy for Renewable Energy

A regional renewable energy policy creates added value and can complement or facilitate the adoption of national policies. It has the potential to:

- Encourage the adoption of national targets and action plans which contribute to the achievement of the regional targets;
- Bring guidance for a harmonised framework at national level for the preparation of standard PPA, FIT, concession schemes etc. through a close collaboration between ECREEE and the ECOWAS Regional Electricity Regulatory Authority (ERERA) ;
- Enable the harmonisation of tax and duty policies and common standards and regional quality labelling for equipment and systems as well as the certification of skills;
- Create a credible pool of knowledge on renewable energy technologies and resources through ad-hoc institutions and capacity building networks by mutualising the training know-how of the few specialised technical institutions in the region;
- Promote a regional market for renewable energy investments, generation and equipment manufacturing and job creation.

Vision of the EREP

The vision of the EREP is to secure an increasing and comprehensive share of the Member States' energy supplies and services from timely, reliable, sufficient, least cost and affordable uses of renewable energy sources enabling:

- Universal access to electricity by 2030
- A more sustainable and safe provision of domestic energy services for cooking thus achieving the objectives of the White Paper for access to modern energy services by 2020.

The EREP renewable energy scenario is fully complementary to the WAPP power supply strategy, and conventional national supplies, both as a significant contribution to bulk power generation and as a prevailing contribution to universal energy access for rural areas. Renewable energy can potentially become an engine for industrial development and employment creation and lead the ECOWAS Member States on the more gender-balanced path to "the green economy". The EREP will create strong links and synergies with the envisaged activities under the ECOWAS Energy Efficiency Policy (EEEP).

Objectives

- Improve safety and sustainability of energy supply in the ECOWAS region;
- Support the region's socio-economic development without imposing major economic costs;
- Promote access to energy services in rural and urban areas by 2030 in order to stimulate economic development and social and productive uses;
- Create a favourable environment to attract private sector investment and use renewable energy as an engine for industrial, social and economic development;
- Reduce dependence on imported fossil fuels and exposure to volatile hydrocarbons international markets and thus have a positive impact on regional trade balance;
- Reduce the negative environmental externalities of the current energy system, such as forest resources overexploitation, local pollution or emissions of greenhouse gases, by positioning the

ECOWAS Member States on the path towards sustainable development and a low carbon economy, as well as 'developing greater resistance to climate change;

- Mainstream gender in renewable energy related issues in particular associated with women productive roles.

Targets

Three groups of targets are set by the EREP: for grid-connected renewable energy applications; for off-grid and stand-alone applications; and for 'domestic renewable energy applications':

Table 1: Targets for grid connected renewable energy

in MW installed capacity	2010	2020	2030
EREP renewable energy options in MW	**0**	**2,425**	**7,606**
EREP renewable energy options in % of peak load	0%	10%	19%
Total renewable energy penetration (incl. medium and large hydro)	32%	35%	48%
in GWh	**2010**	**2020**	**2030**
EREP renewable energy options – production in GWh	**0**	**8,350**	**29,229**
EREP renewable energy options - % of energy demand	0%	5%	12%
Total renewable energy production (incl. medium and large hydro)	26%	23%	31%

Table 2: Targets for off-Grid applications

Least-cost option	2010	2020	2030
Off-grid (mini-grids and stand-alone) share of rural population served from renewable energy in %		22%	25%

Table 3 : Target for Domestic applications and biofuels

Least-cost option	2010	2020	2030
Biofuels (1st generation)			
Ethanol as share of Gasoline consumption		5%	15%
Biodiesel as share of Diesel and Fuel-Oil consumption		5%	10%
Improved cook-stoves - % of population	11%	100%	100%
Efficient charcoal production share-%		60%	100%
Use of modern fuel alternatives for cooking (e.g. LPG) - % of population	17%	36%	41%
Solar water heater technologies for sanitary hot water and preheating of industrial process hot water:			
▪ Residential sector (new detached house price higher than €75,000)		At least 1 system installed	At least 1 system installed
▪ District health centres, maternities, school			

kitchen and boarding schools		25%	50%
▪ Agro-food industries (preheating of process water)		10%	25%
▪ Hotels for hot sanitary water		10%	25%

- 7% of the Renewable Energy equipment, by value, installed in 2020 is regionally manufactured. This proportion should reach 20% by 2030.

Implementation Strategy

The implementation strategy is summarised in the following chart diagram.

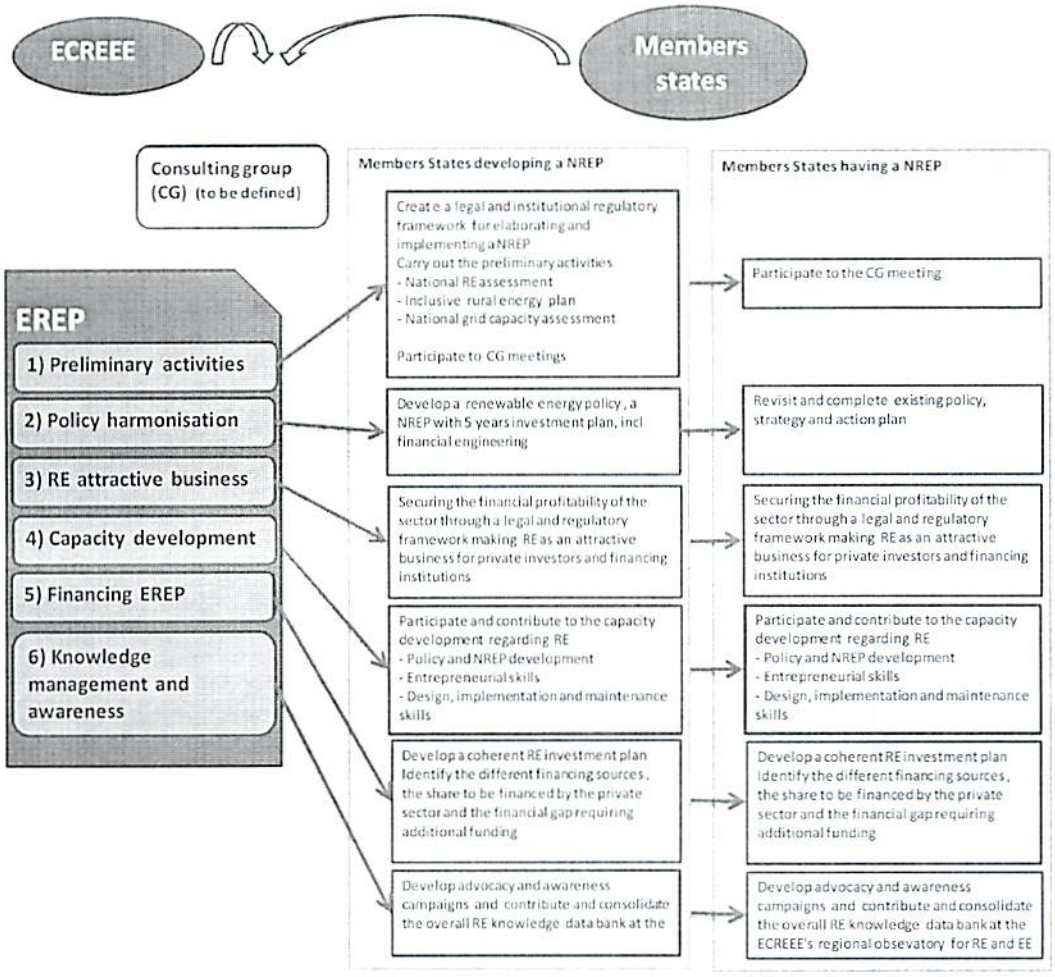


Figure 1 : Implementing the EREP and the NREPs

The policy will be implemented following the principle of subsidiarity; ECREEE will develop activities having an added value for the regional level while at the same time the Member States will develop their National Renewable Energy Policy and Action Plan (NREP) if needed.

The EREP will be articulated around the following six actions:

- Secure a coherent, efficient and flexible legal, institutional and regulatory framework in order to develop consistency between the regional and the national renewable energy policies;
- Each Member State has a National Renewable Energy Policy (NREP) with an associated implementation strategy and a five year rolling action plan;
- Make renewable energy power and hardware production an attractive business for private investors/entrepreneurs;
- Capacity Development for national officials, and required technicians to design, implement and operate renewable energy applications;
- Financial Intermediation seeking a larger involvement of the private industrial and banking sector
- Advocacy, Awareness and Knowledge Management through the ECREEE Regional Observatory for Renewable Energy and Energy Efficiency (ECOWREX).

Monitoring of Policy implementation

A monitoring structure will be established and monitored by the ECREEE. The National Focal Institutions representing ECREEE at the Member States level will ensure the day to day communication between the regional and the national levels.

Time schedule

The present policy is expected to be approved by the ECOWAS energy ministries at the Accra Conference in late October 2012.

Year 1: ECREEE will develop all necessary regional inputs to the NREPs development or update to ensure a launching of the NREPs' development in March 2013.

Meanwhile, ECREEE will develop activities for donors' pledges for EREP and NREPs and for entrepreneurial business to business cooperation.

It is expected that the official launch for NREPs could take place in March 2013. Each Member State should have an updated NREP with a 5 years investment programme latest by March 2014.

Following the adoption of this policy document:

<u>Year 1:</u>

- Member States establish according to their needs their national legal and institutional framework, identifying the national officials in charge of renewable energy planning.
- All necessary guides, curricula, training sessions are prepared and all available information distributed to the Member States through the NFIs.
- A Regional Conference launching the process is held in the region. This event will offer opportunities for back-to-back activities for training and/or business development.

<u>Year 2:</u>

- National Renewable Energy Policies are adopted by Member States with an associated implementation strategy and a-five years rolling action plan and necessary budgetary allocation.
- According to the NREP and action plan, all countries will have mainstreamed renewable energies into their national institutional and regulatory frameworks.

Background Information

At the background of the severe energy crisis in the Economic Community of West African States (ECOWAS), the fifteen Member States[1] have expressed the need to mainstream renewable energy and energy efficiency into their national policies. In this context, the countries have agreed on a stronger regional cooperation and integration to accelerate this process. The renewable energy and energy efficiency directives of the European Union have shown that regional integration can be an effective tool to catalyse necessary actions at national level. As a consequence, the ECOWAS Member States created the ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE) in 2010. As part of its mandate, the Centre has been leading the process of developing and implementing the ECOWAS Renewable Energy Policy (EREP) and the ECOWAS Energy Efficiency Policy (EEEP). Both policy documents will be adopted by the ECOWAS Energy Ministers during the ECOWAS High Level Energy Forum, to be held from 29 to 31 October 2012. The policy was prepared on the basis of a comprehensive baseline report on renewable energy in the ECOWAS region.

Scope of the Document

Renewable resources include solar energy, wind, hydro, the heat of the earth (geothermal), plant materials and biomass and organic wastes (bioenergy), waves, ocean currents, temperature differences in the oceans and the energy of the tides. Renewable energy technologies produce power, heat or mechanical energy by converting those resources either to electricity or to motive power. The focus of the EREP lies on commercially viable and mature renewable energy technologies which can rely on a significant feasible potential in the ECOWAS region. The scope of the policy document is limited to the renewable energy technologies described below. They will be referred throughout this document as "EREP Renewable Energy Options":

- Small-scale hydropower (Small-hydro or SSHP) up to a maximum installed capacity of 30 MW (partially includes also medium-scale hydro power projects (MSHP) from 30-100 MW). Large-scale hydro power (LSHP is starting from 100 MW) is covered by the WAPP Master Plan and widely used in the region. In this sense, the policy shall be seen as complementary to the WAPP Master Plan.

- Bio-energy covering three different fields:

  - Woodfuels (firewood and charcoal) used for domestic cooking purposes and commercial applications (restaurants, breweries, potteries, blacksmith). Excess woodfuels resources could be used for power generation with other biomass

  - By-products from crops production for power generation (stalks, straw, husks, shells, kernels etc.). These can serve as fuel for power generation when gathered together on an agro-industry site. Power can also be generated through biogas production using industrial or urban waste, manure and dung (resource concentration at dairies or slaughter houses or cattle and vegetable markets)

[1] Benin, Burkina Faso, Cape Verde, Gambia, Ghana, Guinea, Guinea-Bissau, Ivory Coast, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo

- Finally energy crops for power generation or sustainable biofuels (e.g. jatropha) offer some interesting perspectives. This policy considers 2nd generation biofuels which do not compete with food crops for available land, and comply with the following minimum criteria: lifecycle GHG reductions, including land use change, and social standards. It is envisaged that ECOWAS will develop a separate policy on sustainable biofuels.

- Wind energy (on-grid and off-grid applications)
- Solar: PV and CSP and solar thermal water heating.

The policy aims at creating synergies with other policies of ECOWAS, WAPP and UEMOA and particularly the ECOWAS Energy Efficiency Policy (EEEP). The policy document is the result of a consultative process with stakeholders in the ECOWAS region. Further technical details and analyses can be found in the annex and the baseline report.

ECREEE
www.ecreee.org

1 Context

The effort to develop and implement a **regional renewable energy policy responds to the severe energy crisis in the fifteen ECOWAS Member States**. The current status of the energy system hampers the social, economic and industrial development of the whole region. The countries face the interrelated challenges of energy access, energy security and climate change mitigation simultaneously. Electricity shortages in urban areas and lack of access to modern, affordable and reliable energy services in rural areas are interrelated with a variety of economic, social, environmental and political problems.

1.1 Energy poverty

In "business as usual" scenarios – without considerable additional investments – energy poverty and its consequences for the economy and society will continue to be a predominant challenge in the ECOWAS region in 2030. West Africa, with around 300 million inhabitants, equivalent to roughly one third of Africa's total population, has one of the lowest modern energy consumption rates in the world. There are **significant energy pricing and income inequalities between urban and rural areas** and among different social groups, a phenomenon common to many developing countries. The urban and rural poor in West Africa spend proportionately more of their income for poor quality energy services than the better-off for better quality services. Whereas urban areas tend to use energy higher up the energy ladder (e.g. electricity, charcoal, kerosene etc.), rural areas continue to rely on traditional biomass for meeting their energy requirements for cooking and lighting.

In 2009-10, it was estimated that nearly 175 million people had no access to electricity. Amongst them, 25% are living in urban and 75% in rural areas. In some countries, less than 10% of the rural population has access. In the most optimistic scenarios it is estimated that 75% of the population will have access to grid electricity by 2030. This would still leave almost 150 million inhabitants and 58% of the localities in the ECOWAS region without access. If this trend continues, the region would be far from achieving universal energy access.

The **private sector has not been attracted to invest in electricity in rural areas** due to the low consumption of electricity, limited ability and willingness to pay, and the high costs of diesel generation. Therefore, most governments have set up Rural Electrification Agencies (REAs) and/or Rural Electrification Funds (REFs) to promote decentralised rural electrification. However, for various reasons, these have not been able to make much impact so far. A first summary of the achievements[2] of the REAs/REFs since their creation in the late 90's and early 2000, shows that in many cases the REFs were not adequately designed as sustainable financing mechanisms, and the REAs did not have sufficient financial and technical expertise to mobilize funding and mainstream innovative renewable energy technologies.

[2] CLUB-ER Publications: Financing Rural Electrification Programmes in Africa, 2010 www.club-er.org

Meanwhile, if the total energy situation is considered, **traditional biomass** (firewood and charcoal) represents the bulk of the final energy consumption, reaching up to 70-85% in some of the countries. Although there are efforts to promote the use of LPG in urban areas, charcoal has remained the basic fuel used in these areas; charcoal is preferred to firewood because of its better combustion and its lower transportation costs compared to firewood, but its conversion from firewood is inefficient. The rural population use firewood in traditional stoves. Increasing population and urbanisation are, therefore, severely impacting the forest and savannah woodland environment, calling for stringent ameliorative measures. The use of woodfuels is also severely impacting the health and quality of life of rural and urban people, particularly women and infants.

1.2 Energy security

The electricity systems in West Africa are facing challenges due to the **growing gap between predicted demand, existing supply capacities and limited capital to invest**. Additionally, the energy intensity and the electricity losses during generation, transmission and distribution are very high, thus compounding the problem. Power shortages lead to regular blackouts and load shedding causing huge social and economic costs. Increasing fossil fuel import dependency, shortages and fluctuating fossil fuel prices are major concerns of West African countries and require a diversification of sources. In some countries even more than 90% of the electricity generation is satisfied by expensive diesel or heavy fuel. As a result, the steadily increasing and fluctuating oil prices have had a devastating effect on the economies in the region.

The **consumer tariff structure is not very rational**. The average consumer tariff lies at 13.6 c€/kWh, but in some countries it is even much higher. This is largely because of rising dependence on oil-based generation. The operating average cost of diesel is 20.4 c€/kWh. Nevertheless, in almost all countries of the region, rates charged to enable residential/commercial/industrial consumers do not enable full cost recovery. This has led to offering of large blocks of highly subsidised electricity to different customers regardless of their incomes. The issue of high connection fees has also not been addressed, which leaves out many poorer households from the grid.

Existing **power generation costs are high**, partly because of the dependence on diesel and heavy fuel whose prices have been rising and much of it has to be imported, for most of the smaller oil importing countries in the region. As a consequence, tariffs are either high or highly subsidised, considerably straining national budgets. The state utilities are often plagued by weak management capacity resulting in less efficient operations and uncertain financial viability. As these utilities continue to be under-capitalized, their capacity to access financial markets for upkeep and expansion projects remains severely constrained. Yet, in most cases, these will be the central actors in the reversal of these challenges.

1.3 Climate Change

With the consideration of climate change, another concern was added to the heavy energy agenda of the ECOWAS region. West Africa is only responsible for a fraction of global energy related GHG emissions. However, the **energy sector will be highly impacted by mitigation and adaptation costs of climate change** in the forthcoming decades. Climate change risks and the need for reliable and affordable energy supply to ensure energy security and energy access create a dilemma. On the one hand, urgent investments are required. On the other hand, the expansion of energy supply based on

inefficient low-cost fossil fuel combustion technologies will increase GHG emissions and interrelated negative climate change impacts which harm Sub Sahara Africa at most. New energy infrastructure investments have a long life-time and determine the GHG emissions for the next 20 to 30 years. Climate change impacts (temperature rise, extreme weather events, and droughts) will challenge the energy security of ECOWAS countries and have to be mainstreamed into energy policy planning. This is particularly important with regard to hydro power due to the possible changes in the rain patterns and river flows.

1.4 Weak policy frameworks

The **institutional, regulatory, legal, and tariff structure and framework are largely non-existent or weakly implemented**. So far there are only a few incentives for private capital to invest in the renewable energy (RE) sector in West Africa. Investments in RE power projects have had a predominant share of Official Development Assistance (ODA) funding. The success stories regarding Independent Power Producers (IPP's) are mostly related to power production through natural gas. If one looks at the big picture, of the total investment of €1.92 billion for the ECOWAS energy sector, total renewable energy investment accounts for only 5 % and IPP investment 3.5%. New projects of wind and solar energy through IPP in Cape Verde could be the harbinger of change. Investors want transparency (easily understood/open to all), longevity, certainty, and consistency. Such frameworks would have to be developed.

The general focus of utilities and Governments has been on conventional power systems, although this is beginning to change. Rural electrification has been largely conceived as a natural grid extension of the national electrification plan. Thus, little attention has been given to mini grids or stand-alone systems and there are only a few scattered examples. Although rural areas have low consumption density, and poor power purchasing potential and cost of transmission lines to reach them is very high, grid based solutions have been thought of being more economical and easier to manage in terms of cross subsidy through tariff. Also, as a consequence, although the ECOWAS region is well endowed with renewable energy resources, their share in the countries' energy mix is almost zero when large hydro power generation is excluded. The policy environment has not helped improve the situation significantly, but there has been a growing realisation over the last few years that drastic action is required to ensure adequate generating capacity in the region, and to develop both conventional and renewable energy sources. The need to address the energy access issues and improve the cooking energy situation has now been recognised as a priority.

1.5 Regional energy policies and initiatives

The Regional Renewable Energy Policy has been developed within the context of several recent regional and global energy policy initiatives and strategy frameworks:

- The ECOWAS White Paper on a Regional Policy for Increasing Access to Energy Services in Peri-Urban and Rural Areas by 2015
- The UN Sustainable Energy for All (SE4ALL) Initiative
- The WAPP Revised Master Plan for an integrated regional power market
- UEMOA-IRED initiative for sustainable energies
- CILSS initiatives on PV and traditional biomass

1.5.1 ECOWAS White Paper

In 2006, the **ECOWAS White Paper on a Regional Policy for Increasing Access to Energy Services in Peri-Urban and Rural Areas** set the following three targets to be achieved by 2015:

- 100% of the total population should have access to improved cooking fuels and stoves, whereas 9.2% currently have access to LPG cooking devices.
- 66% of the population in rural and urban areas should have access to individual electricity supply; 100% for the urban areas and 36% for the rural areas. Furthermore, 60% of the rural population should live in a locality with modern access to water supply, education and health services as well as telecom services.
- 60% of the population living in rural areas should have access to motive power for productive uses.

Furthermore, among the 10 indicators listed to measure the impacts of the policy, indicator 10 states that at least 20% of the new investment in electricity generation in rural areas should be driven by local and renewable resources. Recently undertaken progress reviews of the implementation process of the White Paper indicate that most of the targets will not be achieved by 2015. A renewed political commitment and a stronger focus on sustainable energy solutions are required.

1.5.2 The UN Sustainable Energy for All (SE4ALL) Initiative

The UN Secretary-General has launched the Sustainable Energy for All (SE4ALL) Initiative. The Secretary-General is urging all stakeholders, including at the highest level and in private and public sectors, academia and civil society to take concrete action and commitments towards three critical objectives – all to be achieved by 2030: (1) ensuring universal access to modern energy services; (2) doubling the share of renewable energy in the global energy mix, and (3) doubling the global rate of improvement in energy efficiency. Tangible commitments have been mobilized through the Secretary-General's High-level Group on Sustainable Energy for All (SE4All). The United Nations Conference on Sustainable Development held in Rio de Janeiro, Brazil in June, 2012 (Rio+20) concluded with more than US$500 billion mobilized with over 700 commitments made, most of them in sustainable energy. The commitments are to be transformed into a framework of concrete actions

globally, including the ECOWAS region. Within this framework, ECREEE has the mandate to represent the ECOWAS region on all matters relating to renewable energy and energy efficiency.

1.5.3 WAPP Revised Master Plan

The framework for an integrated regional power market is set up by the **West Africa Power Pool (WAPP)** with the main objective of finding a technical and economic optimum between:

- Development of large regional power generation projects
- Development of regional power interconnections among the ECOWAS countries, so that power from the projects could flow to the deficit countries.

The WAPP Master Plan approved in September 2011, foresees 30 power generation projects selected as WAPP regional projects with a total capacity of 10.3 GW and a cost of US$18 billion (€15 Billion). The major share of this new capacity is projected to be available from 2017 to 2019. The selected projects are based primarily on large hydro power (21) with 7,093 MW, on natural gas (3) with 1,300 MW, on coal (2) with 1,075 MW and on renewable energy (4) with 800 MW. It must be noted that some projects are already getting delayed, and, therefore, the proposed scenario will most likely not happen as scheduled. This would have serious consequences for the importing countries and countries relying on new large hydro. In this context, RE technologies might be becoming more competitive.

1.5.4 Regional Initiative for Sustainable Energy - IRED

The development objective for the IRED is formulated as follows: *'In 2030, all UEMOA[3] citizens will have access to a cheap energy supply, from a West African comprehensive, integrated and harmonised power market delivering clean energy based on a dynamic public private partnership'.*

This initiative is based on 3 main pillars:

- Rehabilitation and development of large hydro-production;
- Conversion from oil to gas of existing thermal production and rehabilitation and development of large gas fired combined cycle plants (450 MW);
- Sharing the regional capacity through the regional integration (interconnections).

It is expected that an increasing share of additional power capacity can be covered by renewable energy.

1.5.5 Permanent Inter-State Committee for Drought Control in the Sahel (CILSS)

The CILSS initiative (PREDAS) covers 7 of the ECOWAS countries (Niger, Burkina Faso, Mali, Senegal, Cape Verde, Guinea Bissau and The Gambia) and focuses on woody biomass, sustainable management of forest and wooded lands and sustainable use of wood-fuel, including substitution strategies (LPG and kerosene). Efforts are being made in the CILSS countries to build commitment around a national domestic fuel policy having sustainable forest management, efficient uses of the resources (cook stoves and charcoal production) and fuel substitution as main pillars.

[3]UEMOA Member States are: Benin, Burkina Faso, Ivory Coast, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

1.5.6 The ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE)

ECREEE is a specialized agency of ECOWAS with a public mandate to promote regional renewable energy (RE) and energy efficiency (EE) markets. It acts as an independent body but within the legal, administrative and financial framework of ECOWAS. The Centre was established in 2010 with support of the Governments of Austria and Spain and with key technical assistance of the United Nations Industrial Development Organization (UNIDO). In 2011, the ECOWAS Commission launched two complimentary projects to develop the Regional Renewable Energy Policy and the Regional Policy on Energy Efficiency. ECREEE aims at creating an enabling environment for regional RE&EE markets by mitigating various barriers for the dissemination of green energy technologies and services. The Centre implements activities, programs and projects in the scope of four priority areas: 1) tailored policy, legal and regulatory frameworks; 2) capacity development and training; 3) knowledge management, awareness raising, advocacy and networks; and 4) business and investment promotion.

1.6 Opportunities and promising trends

1.6.1 National RE Policy Development

Several countries have adopted or are in the process of developing a renewable energy policy and favourable institutional structure. However, only some countries have taken concrete steps to implement the policies. There is a lack of clear responsibility for renewable energy policy implementation in most countries, and only a few have dedicated agencies in this area. There is also a lack of clear mandate to promote renewable energy. In general, the responsibility for renewable energy is located within the Ministry of Energy (Senegal created a Ministry of Renewable Energy but the policy action was reversed). There are only few cases where there are separate Directorates, but most are poorly staffed, funded and organised. Except for Cape Verde, Ghana and Nigeria, there are no regulatory authorities dealing with renewable energy.

Cape Verde has been, in general, the pioneering country making renewable energy a priority for the development of the country. It aims at 50% penetration of renewable energy in the electricity mix by 2020 and has taken a number of steps towards implementation (e.g. RE law and other incentives). Recently, Cape Verde installed 25.5 MW of grid-connected wind farms and 7.5 MW of grid-connected solar PV plants. Senegal, Ghana, Mali, Liberia, Guinea, and Nigeria have developed a detailed renewable energy policy. Ghana and Senegal have passed a renewable energy law and feed-in-tariff systems are under preparation. Liberia, Mali, and Senegal have adopted ambitious RE targets of 30%, 25% and 15% (of installed capacity) respectively by 2021, and Ghana and Nigeria 10% by 2020.

1.6.2 Renewable energy potential

There is a huge technically and economic feasible potential for renewable energy development in West Africa. The resources are generous and well distributed among the countries.

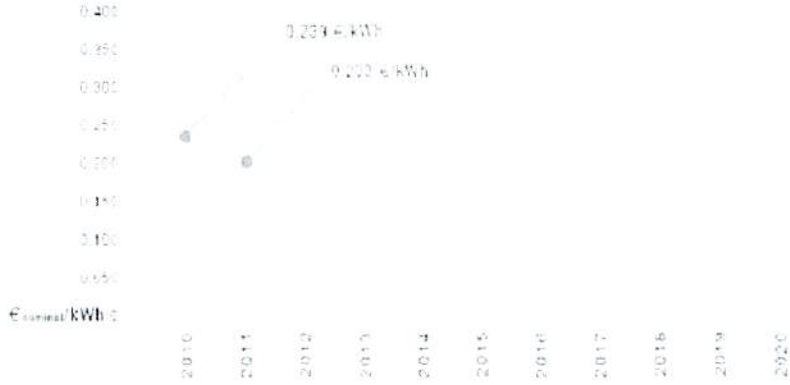
- Wind potential is concentrated in the costal zones (Cape Verde, Senegal, Gambia, and possibly Ghana, Mali and Nigeria) ;
- Small-scale hydro potential is located particularly but not exclusively in the southern part of the region (Cote d'Ivoire, Ghana, Guinea, Guinea Bissau, Liberia, Togo and Sierra Leone) ;

- Solar resource is abundant in the northern regions (Niger, Burkina Faso, Niger and the northern part of Ghana and Nigeria) ;
- Except for Cape Verde, biomass resources are well distributed among the region.

Therefore, there is considerable potential to address both grid and off-grid related energy service needs of the region.

1.6.3 Renewable energy becoming more competitive

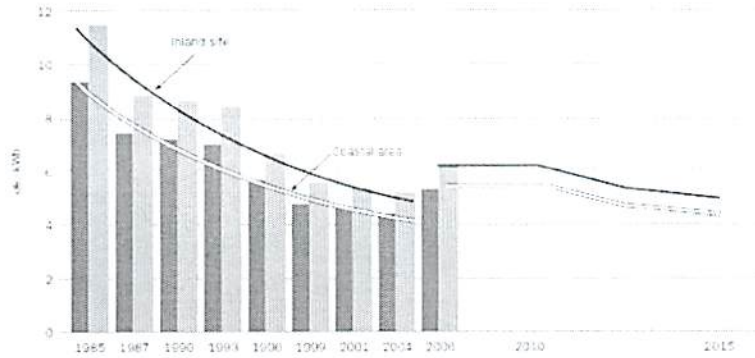
The market trend indicates a **price decrease for renewable energy technologies** on the one hand and a price increase for fossil fuel costs on the other hand. The reductions for solar PV are shown in the graph below, and price reduction for all renewable energy technologies is foreseen within the next 20 years.



(Source: European Photovoltaic Industry Association EPIA)

Figure 2 : European PV LCOE range projection 2010-2020

As far as wind energy is concerned, the experience curves illustrated in the graph below also show the promising future development of wind turbine economics by 2015:



Costs are illustrated for an average 2 MW turbine installed either at an inland site or at a coastal position Source: Risø DTU

Figure 3 : Using experience curves to illustrate the future development of wind turbine economics until 2015

1.6.4 Private sector investment

Globally and also in developing countries, investment in renewable energies is increasing. Although, there are few players and investors in West Africa, there is a **nascent interest from the private sector which needs to be capitalised by putting in place appropriate and stable policy and enabling regulatory frameworks**.

1.6.5 Advantages of renewable energy

In comparison to larger energy projects, EREP renewable energy options present a series of comparative advantages as they tend to be:

- Faster to implement
- Closer to the demand (reducing system losses and transmission costs)
- Less demanding in terms of investment packages, making it more suitable to the financial capability of regional/local entrepreneurs and financial institutions
- Cleaner in terms of pollutions and thus leading the ECOWAS Member States on the path to low carbon development patterns
- Economically more reliable in terms of reducing reliance on fossil fuel imports and exposure to volatile international markets
- Create more local economic and social added value.

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2 Vision of the policy

The vision of the EREP is to secure an increasing and comprehensive share of the Member States' energy supplies and services from timely, reliable, sufficient, least cost and affordable uses of renewable energy sources. This should enable the entire region to reach **universal access to sustainable energy services by 2030.**

In line with the ECOWAS/UEMOA White Paper for Energy Access, the EREP vision also includes **a more sustainable and safe provision of domestic energy services for cooking.**

The EREP scenario is fully complementary to the regional WAPP power supply strategy and national supply strategies. The scenario aims at reaching a **significant contribution of RE to bulk power generation** and **an almost exclusive contribution to universal energy access for rural areas** without the perspective to be connected to the grid in the near future.

Renewable energy technologies might become an **engine for industrial development and employment creation - "the green economy"** - related to manufacturing of items, the design of equipment, building, operating, and maintaining of equipment and plants. It would also become part of a comprehensive rural development strategy, spawning rural entrepreneurship and increase in rural incomes.

It is also expected that the woody resources, which are severely threatened by the demographic growth and its inefficient uses, will recover due to the efforts to introduce efficient cooking stoves, improved charcoal burning methods and new paradigms for forestry management.

EREP Best-Case Scenario by 2030

As a result of the development of regional and national conducive institutional and regulatory frameworks during 2013-2014, a flourishing market for renewable energy technologies will grow. This enables a comprehensive integration of new renewable energy sources into national energy systems and the regional electricity balance as well as considerable job and business creation. The success is a result of a solid commitment to EREP approach at the highest level by all ECOWAS Member States, under the competent monitoring of ECREEE and its partners. Universal access for all ECOWAS citizens becomes a reality in 2030, and 75% of the population at that time is grid connected. Renewable energy reaches a share of about 48% of the overall installed electricity capacity in the ECOWAS region (incl. medium and large hydro) in 2030. The remaining 25% of the ECOWAS population living in smaller localities in remote rural areas will enjoy electricity services from mini-grids or will be supplied by highly reliable stand-alone systems. Mini-grids will provide high quality services at competitive prices.

2.1 Objectives for the EREP

The EREP aims at reaching the following overall policy objectives:

1. **To improve energy security and energy sustainability**

With the implementation of the WAPP Master Plan, the ECOWAS energy crisis is projected to be largely resolved from 2018 onwards. Although delays are quite likely, renewable energy power generation should become a full-fledged component of power production in the region to the maximum extent possible, for all countries, whether importers of energy or future exporters. But it would be especially important for the former, as they are the countries with the highest costs and least access. The power production from small hydro, biomass, and even wind and PV for the best locations, would be competitive with conventional power generation based on expensive diesel oil, DDO or fuel oil. (Refer to Annex 1 or cost estimates) The future oil prices may make this even more important.

It is expected that WAPP projects will take time. Renewable Energy projects, on the contrary, can be implemented much faster, once the proper policy and environment are in place. Therefore their contributions, although smaller, can be realized much more quickly.

There are also substantial possibilities of off grid applications such as solar PV for diesel mitigation and solar water heating which would reduce electricity demand.

2. **To promote universal access to energy services**

Electricity access for rural areas faces two constraints: insufficient power capacity to cope with the actual connected demand and the need to develop national and rural transmission and distribution grids to reach remote areas with dispersed population. According to the present electrification patterns, it is estimated that grid extension electrification would reach 74.8% of the 600 million ECOWAS inhabitants in 2030, but only 42% of the localities will be served. The actual cost of local small scale diesel generation is about 33.0 c€/kWh and the minimum distribution cost for rural areas is 6.2 c€/kWh for less populated areas (50 inhabitants/km^2, 10% real discount rate and universal access from the beginning). As universal access is not necessarily sought from the beginning, this rural distribution cost is higher, close to the bulk power cost of the HV grid. The great advantage of renewable energy technologies is that they are deployable in a decentralized and modular manner. This makes them a particularly suitable energy source for small grids or off-grid solutions, which constitute a great potential in many rural areas where connection to the grid is too expensive. Off-grid renewable solutions are in that case the least cost and most sustainable options for rural areas.

3. **To provide solutions for domestic cooking energy**

Essentially, this would imply deployment of improved cook stoves to a majority of the population, improved practices for production of charcoal and supply of LPG, at least to urban areas. Current practices have led to very substantial deforestation. Therefore, to meet the supply

side, sustainable forest management practices would be necessary, which would reverse the current negative deforestation trend as well as provide sustainable supply of woodfuels in the future.

4. **Create a favourable environment to attract private sector and using renewable energy as an engine for industrial development, fostering social and economic development**

Increased investment in renewable energy will also mean job creation through (i) the renewable energy supply chain: from power plant construction and grid connection to operation and maintenance; (ii) productive uses of energy (irrigation, water pumping, desalination, ice production, telecommunication); (iii) business development (planning, manufacturing, assembling, installation and maintenance services); and (iv) provision of social services (health and education).This would also lead to a blossoming of local entrepreneurship and employment promoting economic development and also rise in rural incomes.

5. **Mainstreaming gender in renewable energy related issues in particular associated with women productive roles**

EREP renewable energy options will offer abundant job opportunities for men and women, in industry and trade sectors, but also in the management and the maintenance of decentralised and individual energy systems. EREP will secure an equal access for men and women to training, credit, and forums for local decision making on renewable energy.

6. **To reduce the negative environmental externalities of the current energy system,** such as air, soil and water pollution and GHG emissions, by leading ECOWAS Member States on the path to sustainable low carbon development, as well as developing an increasing resilience to climate change impacts, facilitating the development and implementation of NAMAs in the ECOWAS Countries.

7. **To strengthen synergies with ECOWAS Energy Efficiency Policy (EEEP)**

Synergies between EREP and EEEP regarding efficient uses of electricity, standardisation and labelling activities, and cook-stoves initiative will be strengthened at regional and national level.

Along with other developments in the energy sector, particularly those embodied in the WAPP Master Plan and the proposed policy on energy efficiency, EREP would help achieve the following results:

- mitigate the severe energy crisis in the ECOWAS region by addressing the challenges of energy security, energy access an climate change mitigation simultaneously;
- improve the financial sustainability of the overall energy generation and supply situation;
- reduce consumer tariffs and fossil fuel dependency and imports in some of the countries;
- meet the rapidly growing electricity demand in urban areas;

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- increase supply reliability and energy security by using national available energy sources and contribute to universal access to modern, reliable and affordable energy services in rural areas where RE solutions tend to be at lower costs in comparison to conventional solutions by 2030;
- create a favourable environment to attract the private sector and using renewable energy as an engine for development and employment through jobs creation in the renewable energy supply chain;
- stimulate social and economic development: job creation, productive uses (irrigation, water pumping, desalination, ice production, telecommunication), business development (planning, manufacturing, assembling, installation and maintenance services), and provision of social services (health and education);
- secure sustainable supply of woodfuels for cooking energy needs thus preserving the forests and savannah areas.

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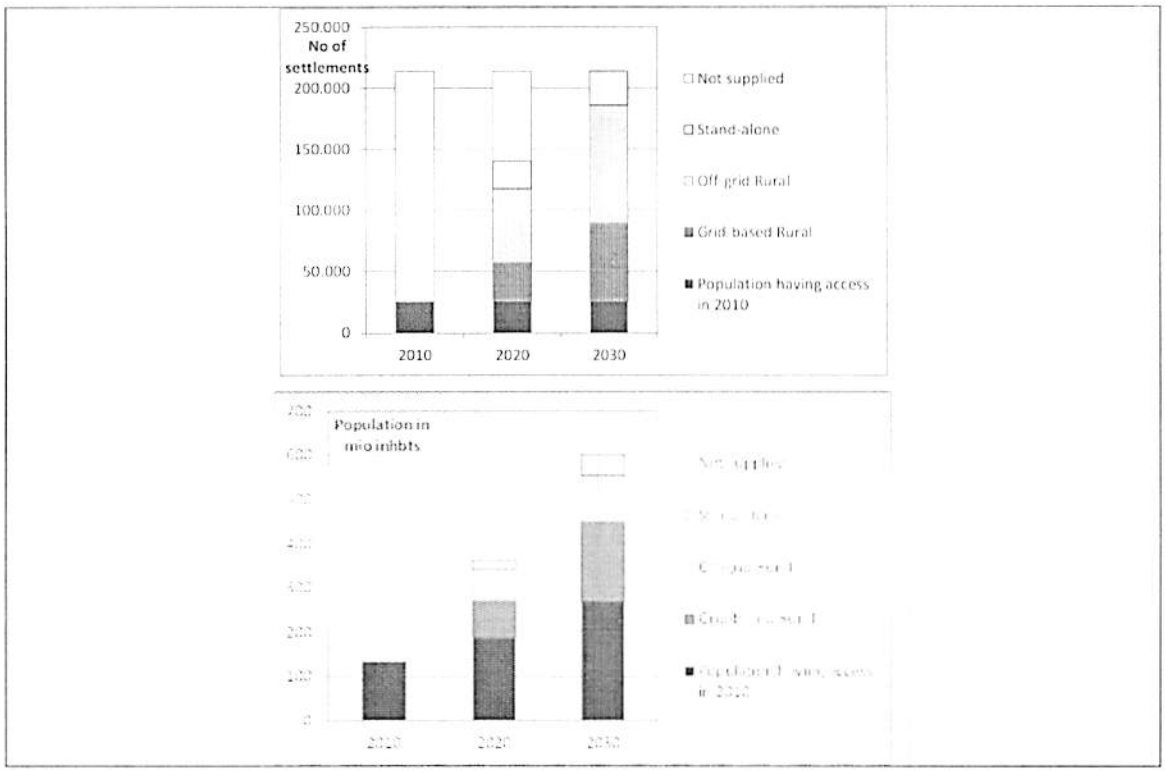
3 ECOWAS Renewable Energy Targets by 2030

Three groups of targets are set for the ECOWAS Renewable Energy Policy: *the first* for "**on-grid connected renewable energy applications**"; *the second* for "**off-grid and stand-alone applications**"; and *the third* for "**domestic renewable energy applications**" ranging from cooking related applications (cook stoves, household biogas, briquettes and LPG strategy) to energy efficient measures such as solar water heaters and distributed power generation (PV roof top and small wind turbines). Each of these is considered separately.

3.1 Justification

In 2010, the overall ECOWAS population was estimated to be 300.7 million inhabitants who are distributed among 213,700 localities with more than 200 inhabitants. There are also several smaller settlements but their total population does not exceed 2% of the overall situation. In 2010, it was estimated that 42% of the overall ECOWAS populations have a potential access to the grid, however only 12% of the localities are covered by electrification. It is estimated that 75 % of the population will be supplied by the grid in 2030, thanks to the implementation of the WAPP generation and transmission plan. In 2030, 104 million inhabitants will be supplied with decentralised mini-grid systems for 96,000 localities having a suitable size (200 to 2,500 inhabitants) while 47 million inhabitants living in small settlements will be supplied by stand-alone systems.

Figure 4: Localities and population supplied by the grid and decentralised RE solutions by 2030



3.2 Grid-connected Renewable Energy targets

The targets for grid-connected renewable energy, as presented in Table 4, are based on a realistic evaluation of available RE resources at national level and on a technical and financial assessment of the different renewable energy technology options that are already commercially available (such as wind turbines, PV panels, hydro turbines, conventional thermal steam power generation and cogeneration with biomass, and diesel or dual fuel gas motors coupled to power generators). It is assumed that PV technology will remain cheaper than CSP technology in the mid-term view; CSP may become an attractive option after 2020.

Table 4: Grid-Connected Renewable Energy Targets for the ECOWAS region

in MW installed capacity	2010	2020	2030
EREP renewable energy options in MW	**0**	**2,425**	**7,606**
EREP renewable energy options in % of peak load	0%	10%	19%
Total renewable energy penetration incl. medium and large hydro	32%	35%	48%
in GWh	**2010**	**2020**	**2030**
EREP renewable energy options – production in GWh	**0**	**8,350**	**29,229**
EREP renewable energy options - % of energy demand	0%	5%	12%
Total renewable energy production incl. medium and large hydro	26%	23%	31%

The EREP renewable energy scenario is fully competitive under commercial conditions for countries relying today on diesel generation. Over a 25 years period, the EREP levelised cost of energy (LCOE) will be from 0.7 c€/kWh to 1.7 c€/kWh lower than the reference cost of diesel generation up to 2018-2021. This conclusion concerns the following countries: Burkina, Cape Verde, Guinea Bissau, Mali, Gambia, Niger, Guinea, Sierra Leone, Liberia and Senegal. However, for countries such as Côte d'Ivoire, Ghana, Togo, Benin and Nigeria, which can rely on low generation and supply costs from large hydro and gas, the most competitive RE sources such SSHP, wind and biomass are still viable and attractive options. Details are provided in the annex. The possible distribution of EREP investments by RE technology are summarised in Table 5 and 6.

Table 5: Scenarios for grid connected EREP renewable energy options

	Wind	Solar PV	Solar CSP	Small scale hydro	Biomass	Total
Installed capacity in MW						
By 2020	318	686	-	787	634	**2,.425**
By 2030	993	1,156	1,000	2,449	2,008	**7,606**
Production in GWh						
By 2020	836	1,082	-	3,102	3,330	**8,350**
By 2030	2,314	1,823	3,679	9,654	11,758	**29,229**
Investments in millions €						
Up to 2020	541	1,166	-	2,872	1,901	**6,479**
Total investments,						

2030	1,540	1,773	3,980	8,357	4,959	**20,609**

This table is illustrated by the charts in annex 1.

Table 6: Share of renewable energy in the overall ECOWAS electricity mix by 2020/2030

in MW	2020	2030
Load forecast ECOWAS in MW	25,128	39,131
RE capacity in MW	2,425	7,606
EREP-RE penetration in MW	**10%**	**19%**
in GWh	**2020**	**2030**
Demand Load forecast ECOWAS	155,841	243,901
RE production in GWh	8,350	29,229
EREP-RE penetration in GWh	**5%**	**12%**

Investments in renewable energies are at the same level of magnitude as the investments proposed by the WAPP Master Plan. Renewable Energies will need some financial support (e.g. subsidies, soft loans) during the first years to initiate the development of a regional market for renewable energy.

3.3 Mini-grids and stand-alone systems

The baseline report has shown that around 25% of the ECOWAS population in rural areas can be served by decentralised renewable energy solutions more cost-effectively (as shown in Table 7).

Table 7: RE Targets for mini-grids and stand-alone systems by 2020/2030

Least-cost option	2010	2020	2030
Off-grid (mini-grids and stand-alone) share of rural population served from renewable energy - %		22%	25%

In 2010, 42% of the total ECOWAS population, estimated to be 300.7 million inhabitants, had access to electricity. The **market for mini-grids and decentralised supply systems** will typically address the need of the rural population living in rural centres and villages with a population between 200 and 2,500 inhabitants. Some larger cities can be included in this market segment according to their peripheral geographical situation vis-à-vis the national grid. This market will supply 71.4 million inhabitants by 2020 and 104 million by 2030. Some of the off-grid localities supplied before 2020 might be included in the grid extension as they will have grown up and their EREP renewable energy options connected to the grid. Therefore, the need for new mini-grids between 2021 and 2030 is higher than the increase of mini-grids as shown in the Table 8. The number of new mini-grids required is assessed to be 68,000 (see Table 9).

Table 8: Market assessment for mini-grid and stand-alone equipment

	Population in millions inhabitants			Localities		
	2010	2020	2030	2010	2020	2030
ECOWAS	*300.7*	*421.0*	*601.4*	*213,700*	*213,700*	*213,700*
Off-grid Rural		71.4	104.3		59,836	96,165[2]
Stand-alone Rural		21.0	47.2		(22,438)[1]	(27,781)

Off-grid Rural	0%	17%	17%	0%	28%	45%
Stand-alone Rural	0%	5%	8%	0%	10%	13%

1) No. of settlements (< 200 inhabitants) but not exhaustive – registered differently country by country

2) Some of the growing off-grid localities will be included in the grid extension and their EREP renewable energy options connected to the grid to support the voltage and reduce the community energy bill. The local distribution LV grid will be reused and extended.

Table 9: Estimated investment costs of mini-grid targets for ECOWAS in M€

	No of mini-grid	Invest per mini-grid	Total investment (M€)
2014-2020	60,000	0.283	16,980
2021-2030	68,000	0.215	14,620
2014-2030			**31,600**

Mini-grid systems will be powered by solar PV, small scale hydro, biomass and small wind turbines or hybrid systems in combination with diesel generators eventually powered by locally produced biofuels. The financial assessment (see in the annex 1) shows that such decentralised mini-grid systems are quite profitable compared with fuel costs for diesel generation and the on-grid costs for rural electrification (direct period of return of capital costs on avoided diesel costs is between 5 to 7 years). The remaining scattered 10% demand would be progressively supplied with a penetration rate of 300,000 stand-alone systems per year during the next 16 years with SHS or micro renewable energy systems that will be developed in the coming years. The **costs for mini-grids are roughly estimated at €17.0 billion up to 2020 and €31.6 billion up to 2030. Stand-alone systems will require an investment in the magnitude of €0.6 billion**, sufficient to provide a minimum electricity service for 47 million inhabitants by 2030.

3.4 Renewable energy applications for domestic uses

3.4.1 Domestic cooking energy targets

Table 10 presents the renewable energy targets for domestic cooking energy.

Table 10 : RE Targets for Domestic Cooking Energy

Least-cost option	2010	2020	2030
Improved cook-stoves - % of population	11%	100%	100%
Efficient charcoal production share -%		60%	100%
Use of modern fuel alternatives for cooking (e.g. LPG) - % of population	17%	36%	41%

- For **improved cook-stoves**, as the pressure on the ECOWAS regional woodlands will grow exponentially, the policy includes the banning of inefficient stoves after 2020, enabling 100% of the urban populations to use high efficient wood and charcoal stoves (efficiency >35%) from 2020, and 100% of the rural populations to use high efficient charcoal stoves from the same date.
- For **charcoal production**, respectively 60%/100% of the production should be by improved carbonisation techniques (yield > 25%) in 2020 and 2030, as charcoal progressively replaces fire wood in the cities.

- For **modern cooking fuels (e.g. LPG), penetration** rate should increase from current penetration rate of 17% to 36% by 2020 and 41% by 2030.

The major challenge to be overcome for domestic energy is not only to reduce consumption of woodfuels but also to secure sufficient and affordable cooking energy to the increasing urban population which will be in 2030 more than the actual total population of the ECOWAS.

According to the undertaken modelling exercise (see in the annex), in 2010, 36% of the population (108 million inhabitants) was living in localities with sizes bigger than 5,000 inhabitants. Their supply in domestic energy can be considered as fully monetised, as the distance to the resource is too high for free collection. The main domestic energy sources are provided by the forest (fire wood and charcoal). In some countries, the use of alternative fuels like LPG and kerosene has increased to an estimated 30% of urban population (LPG - Senegal, Ghana, Burkina Faso, Côte d'Ivoire) and kerosene (Nigeria) corresponding to a total 17% penetration. The remaining 70% in urban areas are covered by woodfuels with an increasing demand for charcoal as it is easier to transport, store and use. This change in consumption pattern from fire wood to charcoal as primary cooking fuel is irreversible. There will also be a huge demographic impact of the likely doubling of population by 2030, and continuing rapid growth in urbanisation.

As a consequence, the forest and other wooded land areas of the ECOWAS region have been reduced by 14.8% during the period 1990-2005 (FAO 2005) and this trend continues even if it has slowed somewhat. In 2005, ECOWAS total forest and wooded land's area was estimated at some 121.4 million ha (FAO, 2005). In 2010, the woodland was estimated to 114.0 million ha. Only four countries have succeeded in maintaining or increasing their forest areas: Cape Verde, Cote d'Ivoire, Burkina Faso and Gambia. However, the most exposed country in terms of deforestation is Nigeria, which has lost 62% of its forest areas since 1990, due to the pressure of the 7th world largest population on its forestry resources.

It is estimated that the current woodland resource cannot and should not provide more than 89 million tonnes woodfuels to avoid overexploitation with increasing risk for deforestation (see Figure 5). Actually, the requirements by 2030 in the normal situation would be 255 million tonnes. Thus the overexploitation index would be 241%, leading to a severe, and possibly irreversible, deforestation of the region.

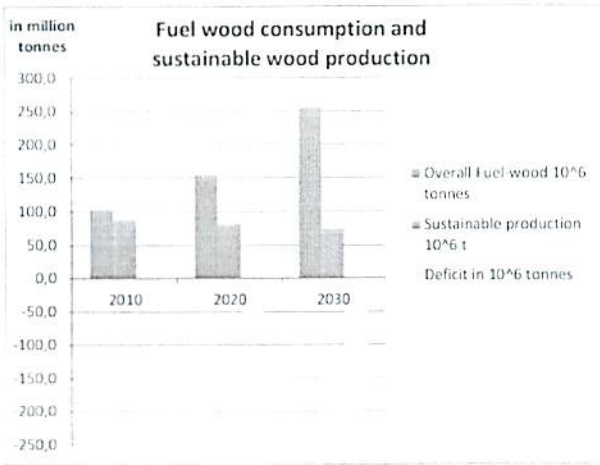


Figure 5: On the way to the ECOWAS region's deforestation

The recent evaluation of the PREDAS programme (CILSS 2010) shows that even if the forest potential in many CILSS countries *appears* sufficient to cater for the domestic demand, efforts still need to be made to strengthen the forestry management in order to extend the sustainable woodfuels production through community participatory management and improved charcoal burning as well as to secure an efficient use of this resource through promotion of efficient cook stoves. Four measures are identified to slow down this negative and alarming evolution:

- To develop and implement forestry management based on larger participation, responsibility and control from the local population seeking to increase the forest area substantially by 2030.
- To universalise dissemination of high efficiency cook-stoves (> 35%) to the urban population by 2020. All other stoves will be removed from the market and their manufacture banned by that date. **The target is thus defined as 100% penetration by 2020.**
- In terms of charcoal production, the approach is to secure higher carbonisation efficiency. The targets are to **increase the present average carbonisation efficiency from 14% by 2010, to 20% by 2020 and 25% by 2030 or in terms of production 75% efficient charcoal burning by 2020 and 100% by 2030.**
- The baseline for use of modern fuels like LPG and Kerosene as domestic energy is a penetration rate of 17% due to the large use of kerosene in Nigeria, accounting for 2/3rds of the 17%. Due to the positive and consistent impact of both previous measures, better carbonisation up to 2030 and ban of inefficient cooking stoves as of 2020, the substitution strategy will become less relevant except for Nigeria, as the gap between the domestic demand and the sustainable woodfuels production will grow steadily. Therefore, the target for the contribution of modern fuels to the regional domestic energy needs to be increased up to 36% by 2020 and 41% by 2030. By that time, this should occur as a result of the social welfare growth for the urban middle class. As shown in the figure below, the increase of LPG consumption will remain moderate for the ECOWAS countries except Nigeria (from 12% of the demand in 2010 to 20% in 2030). The use of kerosene in Nigeria will meanwhile grow from 20% in 2010 to 60% in 2030.

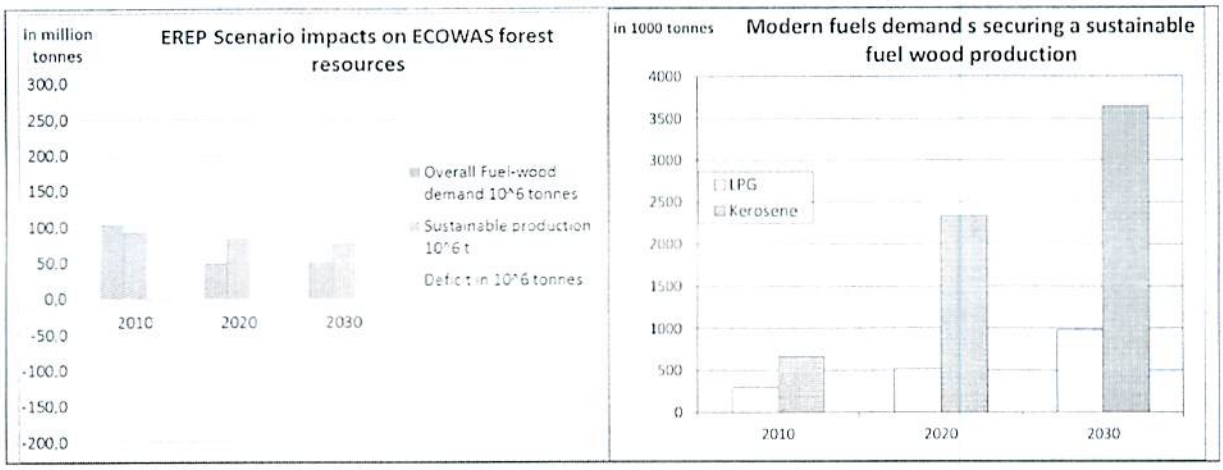


Figure 6: EREP scenario for domestic energy

3.4.2 Targets for solar thermal water heating

One of the important measures for electricity demand mitigation is the use of solar water heating for domestic, commercial and industrial requirements. This is a mature technology. It is necessary to promote its use as much as possible. Therefore, the following targets are proposed (see Table 11):

- 25 % and 50% of the district health centres and the maternity clinics as well as the school kitchens, boarding schools and barracks by 2020 and 2030.
- For hotels, 10% by 2020 and 25% by 2030.
- For agro-food industries using process hot water applying oil-fired boilers, at least 10% of these industries will apply this technology as pre-heater to their boilers by 2030 and 25% by 2030.
- All new built detached houses costing more than € 75,000 are equipped at least with one solar water heater system.

Table 11 : Target for Solar Water Heating

Least-cost option	2010	2020	2030
Solar water heater technologies for sanitary hot water and preheating of industrial process water:			
• Residential sector (new detached house price higher than €75,000		At least 1 system installed	At least 1 system installed
• District health centres, maternity clinics, school kitchens and boarding schools		25%	50%
• Agro-food industries (preheating of process water)		10%	25%
• Hotels for hot sanitary water		10%	25%

Clearly, this application would be more viable when the tariff is diesel based and if subsidy for power elsewhere is withdrawn from larger users. For much of the public system, funds would have to come from the national budget and a proper system of service and maintenance would be necessary. It will

also save considerable amount of electricity. Mandating the use solar water heater technologies by hotels might be required, as also by the new and existing large houses, and this target may need to be increased. It would be also necessary to consider stand-alone solar PV installations for self-consumption in urban areas or institutions which are dependent upon diesel generation. Where day time use is required, solar systems with minimum battery support would be especially viable. At present no targets for such off grid applications have been set, but these will be considered in due course.

3.5 Biofuels

In West-Africa the general attitude towards biofuel is cautious, as biofuel production is generally considered for the national demand and mainly as rural drive energy for motive power for the rural areas. At present time, two options can be taken into consideration: production of ethanol to be mixed in the gasoline (5 to 15% blending) and production of raw vegetable oil (e.g. jatropha) to be used directly or as biodiesel in diesel motors for local electricity production or pumping. The proposed targets will not anticipate the use of second generation biofuel production as that could be commercially available within 5 to 10 years. Therefore, two targets (see Table 12) are set:

- Ethanol production corresponding to 5% of the ECOWAS gasoline consumption in 2020 and 15% in 2030, to reduce the CO_2 emissions of 5/10% for light traffic in 2020/30
- Raw vegetal oil/biodiesel production corresponding to 5% of the ECOWAS diesel oil/DDO/fuel oil consumption in 2020 and 10% in 2030.

Table 12 : Target for the use Biofuels

Least-cost option	2010	2020	2030
Biofuels (1st Generation) Ethanol as share of Gasoline consumption		5%	15%
Biodiesel as share of Diesel and Fuel-Oil consumption		5%	10%

The purpose of developing biofuels is both economic by cutting the importation of 5/10% gasoline at 2020/2030 horizon and social to bring development, added value and motive power to the rural areas through a local production of raw vegetable oil or biodiesel.

3.6 Development of renewable energy markets and of private investment

The target is to ensure that **7% of the renewable energy equipment installed in 2020 are regionally manufactured corresponding to a regional production of 170 MW**. This proportion should reach 20% in 2030, i.e. 1,520 MW/year.

Mainstreaming renewable energy in the Member States' institutional legal and regulatory frameworks will be instrumental for the local industrial development and employment creation. In particular, setting targets for different market segments will stimulate local entrepreneurial activities

related to manufacturing of items, the design of equipment, and building, operating, and maintaining of equipment and plants.

The targeted installation of 60,000 mini-grids systems by 2020 and 68,000 from 2020 to 2030 respectively and stand-alone systems of around 47 million people will naturally lead to development of related local manufacturing as well as operation and maintenance activities. The same can be stated for the domestic sector, where activities for improved cook-stoves and solar water heater technology will help to kick-start or intensify local related activities in these sectors.

Furthermore, fiscal measures and incentives as well as enforced regulations regarding norms for equipment and systems and certification of skills will be vital to create confidence within the private industrial and banking sector.

3.7 RE Barriers to be addressed

Various types of barriers are to be addressed to make the EREP scenario a reality. The existing barriers delay and hinder the dissemination of renewable energy technologies and services.

3.7.1 Policy and regulatory barriers

- The focus of national policy has consistently been on centralised grid development and conventional sources of electric power generation. There is an absence of clear-cut policies for the dissemination of renewable energy technologies. There has been lack of holistic energy planning and energy policy sometimes does not even include renewable energy. As a result, renewable energy technology development follows an ad-hoc path with no allocation of financial resources.
- Several incentives have been provided to promote investments in conventional power generation. Subsidizing grid development has also encouraged this which does not favour investments in alternative energy solutions.
- Non-discriminatory open access to the national electricity grid for renewable energy is not yet assured. There are other regulatory issues.
- Absence of a full-fledged rural electrification strategy with a clear demarcation between grid and off-grid electrification. In fact, the policy is mainly based on grid extension.

3.7.2 Financing and Investment barriers

- Production costs of renewable energies are often higher than subsidised conventional electricity price and it even tends downwards to economic grid parity cost. This also brings in the question of the high upfront investment cost to obtain renewable energy technologies for countries facing recurrent power shortage, and of absence of adequate financing mechanisms.
- For financial institutions, renewable energy technologies are perceived as too expensive solutions with lack of reliability and long-term viability. There is lack of effective regulation to support a workable financial framework encouraging investments.

3.7.3 Technological Barriers

- Procurement of equipment and local maintenance support for renewable energy-based electricity projects remains a real challenge because of the weakness of the present renewable energy market.
- Lack of actual conceptual capacity.
- Lack of critical mass to create conditions for local business.

3.7.4 Capacity barriers

- Lack of capacity in policy formulation, project development and RET financing – both individual and institutional. Availability of technical personnel at different levels, from engineers to technicians remains inadequate. Lack of promoters and entrepreneurs which would be essential for both centralised and decentralised and standalone systems.
- Lack of capacity to plan, structure and appraise projects in a financial view.

3.7.5 Limited public awareness

- Limited public awareness of advantages of renewable energy and its potential with regard to the energy challenges the respective country is facing.
- Inadequacy of awareness reinforces and underlies all of the other barriers and creates a market distortion which results in higher risk perception for potential renewable energy technologies.

3.7.6 Lack of Standards and quality control

- Poorly established standard and quality control of locally manufactured and imported technologies. Creating quality assurance is a precondition for building consumer confidence and in growing the market for renewable energy.

3.7.7 Inadequate resource assessment

Reliable and up-to-date sources of data would assist investors in making decisions on projects of renewable energy with more certainty. These barriers clearly indicate that developing renewable energy is not, for the most part, a problem of solving technological issues. It is, more fundamentally, one of putting in place an adequate institutional framework for the creation and implementation of policies that promote the use of truly accessible cleaner energy sources.

4 Implementation Strategy for the ECOWAS Renewable Energy Policy

4.1 Guiding principles for the EREP implementation

The strategy of the EREP builds on five key guiding principles:

Subsidiarity: to be applied during the implementation of the policy. The EREP will intervene in regional actions only when they can bring added value to national actions. The roles of national and regional institutions in the EREP process will be defined precisely.

Participatory approach: promotion of the approach based on the involvement of the end users in the definition of technical and organisational options. This will be realised by creating, when needed, a forum of national stakeholders for the private sector and the civil society together with the national officials from the relevant ministries, utilities and regulatory authorities. Its role will be to provide advice during the development of National Renewable Energy Policies and to assure the follow-up of their implementation.

Optimisation of the use of available financial resources and the raising of additional resources will require a mix of Public Development Aid (multi– and bi-lateral), national public financing and private financing. This will be done by seeking complementarities between regional and national funding sources and by prioritising 'high impact/ low cost' solutions.

Promoting public-private partnerships: this partnership will cover technical aspects, management systems, fund-raising and financial risk-taking. It is highly important that public actors (state, public institutions, local authorities, etc.) and private actors (national and local entrepreneurs, financial institutions, associations and co-operatives, NGOs, etc.) are mobilised. This will entail setting up appropriate regulatory frameworks and a transparent, incentive based framework.

Support to gender equality: in the context of implementation of the EREP an effort will be made to mainstream gender issues. Participatory approaches will be applied;

In addition to the above, the strategy will be implemented through a multi-sectoral approach ensuring that all needs are taken into account as well as the financial sustainability of retained solutions which should respect the principle of technological neutrality e.g. ensuring that only least cost solutions will be considered.

4.2 Legal and institutional framework and main stakeholders

The EREP will be the catalyst to turn the vision and the identified and quantified targets into concrete action and reality. However, the ECOWAS member countries will each define their own respective strategies for achieving the regional targets. In this process, they will be assisted by ECREEE. The Centre has a coordinating and monitoring role in the development and the implementation of the policy. ECREEE will be supported by key international partners (e.g. UNIDO, EUEI-PDF, Austria, and Spain).

At the regional level, the leading coordinating organisation for the implementation of the EREP is ECREEE. The Centre deals with the regional renewable energy sector, as the counterpart of WAPP which deals with the regional bulk power market. Both entities are ECOWAS institutions with competences and duties on complementary domains of the regional energy sector. Both cooperate with the ECOWAS Regional Electricity Regulatory Authority (ERERA) which is the third regional institution acting on the regional energy market. ECREEE will coordinate most of its activities in close cooperation with the National Focal Institutions (NFIs) in the Ministries of Energy among all ECOWAS countries and a network of regional and international training and research institutions. A challenge for ECREEE will be to build a relationship of trust with the international renewable energy business community and to be able to attract financing in both the renewable energy and the energy efficiency sector.

At the national level, the main challenge for the implementation of the NREP will be to develop portfolios of bankable projects that can be attractive for private investors and financial institutions in order to fulfil the quantitative and qualitative targets. Finally, the role of the private sector (manufacturers, energy services providers, investors, etc.), of the banking sector and of the civil society, including universities, research centres, NGOs, foundations, consumers associations etc. will be vital for the success of this policy. Their awareness and involvement must be sought throughout the implementation of the EREP and the formulation of NREPs.

The EREP implementing strategy will apply different approaches that will be carried out in parallel:

- **A top down approach** monitored and assisted by ECREEE in close cooperation with the NFIs, through guidance to the process, the preparation of technical guidelines and methodologies aiming at providing the countries with the necessary tools and capacity to prepare and implement the EREP on national levels. In this regard the countries will develop national renewable energy policies (NREPs).

- **A bottom up approach** from the Member States that will have to make the necessary efforts to harmonise their energy policies, electricity laws and regulations with the regional policy and streamline and strengthen their organisation so that a clear mandate for effective implementation of the policy is set up. This process will be carried out under the guidance and assistance of ECREEE.

- And a **'bringing into coherence'** approach, ensuring consistency between national and regional implementation strategy, contributing to the rationalisation of national targets with regional targets.

4.3 Strengthening coordination among ECOWAS Member States

ECOWAS Member States have different RE starting points for the NREP formulation and adoption of implementation strategies:

- A first group of Member States are already advanced in the development of a renewable energy strategy and associated implementation strategy;

- A second group of Member States where the effort to mainstream renewable energy is in progress;

- A third group of Member States where renewable energy remains low on the national agenda and the main reforms are still to be initiated.

The main challenge for the EREP will be to provide support to the less advanced Member States to enable them to develop, adopt and implement a NREP and to benefit from the expertise, experience and dynamics of the region and the most advanced Member States. The success of the policy would be dependent on the degree of involvement of the national governments and the leadership provided both at the political level, but also of the selected heads of the institutions to be set up. It would also be partly dependent on the degree of harmonisation achieved between different countries. Strong coordination between all concerned stakeholders is necessary:

- Regional and national regulators and harmonisation efforts for pricing policies, tariffs, PPA, regional rules for third party access including for renewable energy sources, etc.
- The WAPP, especially for all that relates to the planning and erection of the regional interconnected grid, grid access, commercial regulations etc.
- The UEMOA, to avoid duplication of policies and exploiting the synergies.

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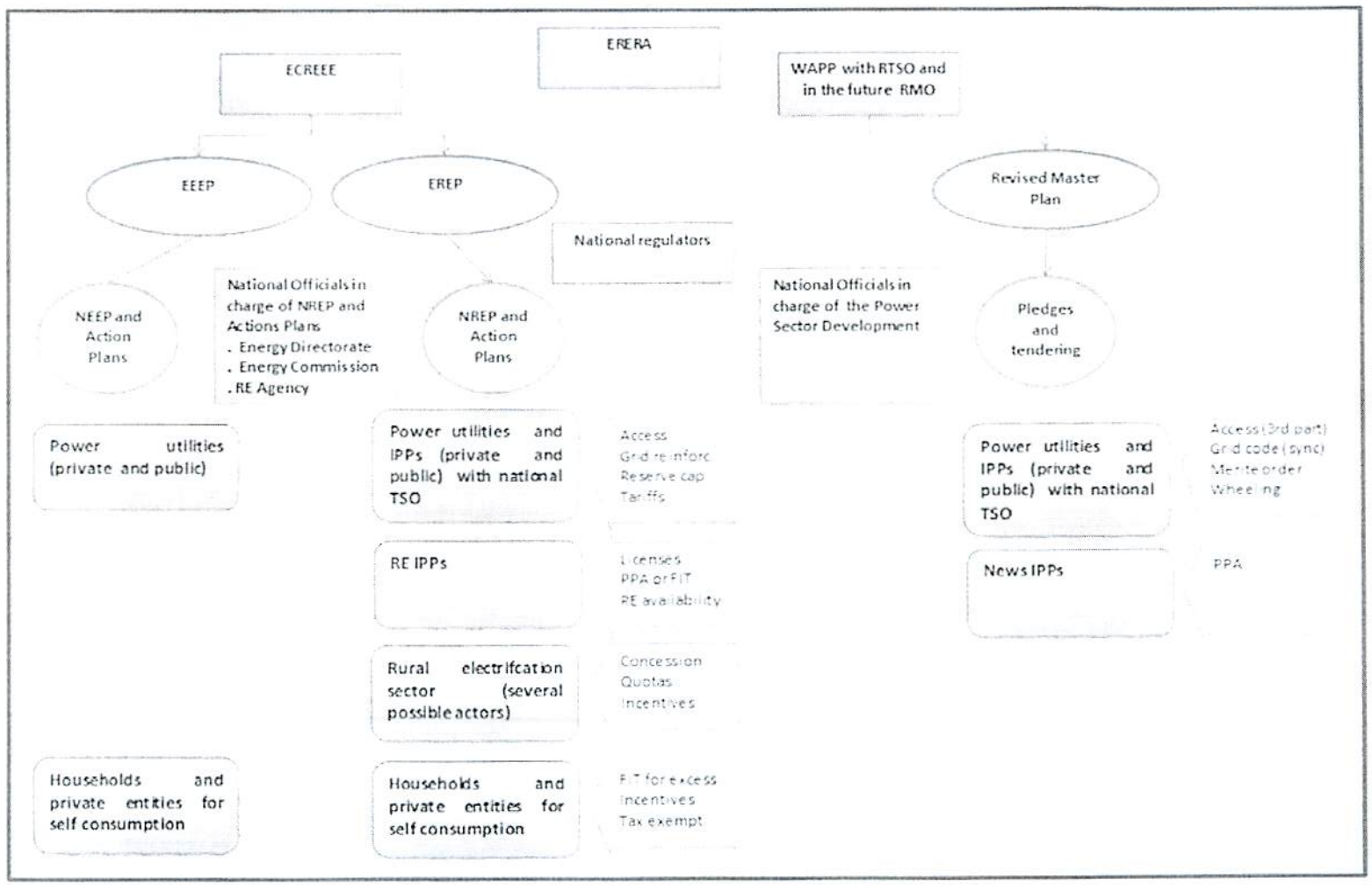
Figure 7 : Organizational chart for the implementation of the EREP



4.4 Key Issues and challenges to be addressed

The analysis of barriers for renewable energy highlights both the need for, and the importance of, a regional RE policy. The EREP aims at assisting the ECOWAS Member States in addressing the following issues and challenges:

- **Creation of an enabling environment** by the development of a fully developed institutional, regulatory and financial framework and creating appropriate incentives to attract and give confidence to private investors for grid projects and medium and small sized renewable energy solutions especially in rural and peri-urban areas.
- **Better assessment of renewable energy potentials** to provide reliable and convincing data backgrounds for projects identification.
- **Fostering the adoption of holistic planning** that includes renewable energies in a comprehensive strategy and allocation of financial resources to implement renewable energy programmes in ECOWAS Member States.
- **Building proper technical capacity** in terms of concept, design, and maintenance for renewable energy technologies with regards to projects development as well as to policy development, to reduce the perception that these technologies are more risky and less reliable than a conventional diesel motor or a grid extension.
- **Raising awareness** on the consequence that conventional fuel subsidies have on the development of renewable energy, as constituting hidden costs into the electricity tariffs structure
- Facilitating the dissemination of information for the banking system and investors **to reduce the perception of financial risk related to renewable energy sources** due to their high upfront costs and the fact that they are viewed as new technologies in West Africa. Implementation of regulation for renewable energy applications and improving knowledge and skills pertaining to renewable energy shall modify this perception as technological barriers and weakness of the present renewable energy market in West Africa also contribute to the high costs for acquisition of equipment / spare part supply / maintenance / services.
- **The development of renewable energy is part of a progressive approach.** Before reaching a renewable energy environment supported by strong private sector and bank system involvement, it is necessary, as part of an emerging market, to provide financial support to the development of renewable energy by mixing subsidies, tax incentives and by the establishment of a favourable regulatory framework for renewable energy Independent Power Producers, and the feed in tariff approach.

4.5 Action 1: To secure a coherent, efficient and flexible legal, institutional and regulatory framework in order to develop consistency between the regional and the national renewable energy policies.

4.5.1 Strengthening the national and regional institutional framework

- **Regional institutional framework:** ECREEE is the lead coordinating institution. ECREEE has already established a network of National Focal Institutions (NFIs) nominated by the Ministers in charge of

Energy. The institutions are either the Ministries themselves or their implementing agencies. These relations would be further developed and intensified during the preparation, implementation, and monitoring of the EREP. ERERA is presently geared to intervene on the up-coming bulk power markets, but is presently acting as adviser in the preparation of bilateral agreements for power exchanges. ERERA needs to develop competences on economic, financial and tariffs aspects for renewable energy, for example feed-in-tariffs, Power Purchase Agreement and regulation for cost sharing regarding grid reinforcement required by renewable energy connection to the grid. ERERA also has to develop a close cooperation with the national regulatory bodies on tools and mechanisms for renewable energy policy implementation (quotas, incentives, legal agreement such as licences, concessions and authorisations), seeking in that way a regional harmonisation. There is also space for cooperation between ECREEE and the WAPP with regard to renewable energy grid stability issues and/or general capacity strengthening and knowledge sharing on renewables. ECREEE also takes leadership in the implementation of the ECOWAS Energy Efficiency Policy and will create synergies to the EREP process as much as possible.

- **National institutional framework:** All Member States shall mandate national official bodies or institutes with the duties and the competence to develop and implement a National Renewable Energy Policy (NREP). On the regulatory side, it is also necessary to revisit the mandate and duties for the national regulatory authorities to extend their fields of competence to renewable energy with the obligation to be associated to all renewable energy contractual matters and with the duties to give mandatory advice. The national and the regional regulatory authorities need to network on a series of topics regarding the technological advances (smart grid, micro solar modular system, CSP and evolution of investment and O&M costs). The selected National Agencies, the Regulatory Authorities and the Rural Electrification/Energy Agencies should be strengthened with proper offices, staff and resources. Their status within the governmental system should be sufficiently raised.

4.5.2 Support the national level with the development process through regional cooperation

ECREEE in cooperation with its international partners will assist the Member States' specific requests with ad hoc guidance or support:

- **ECREEE will publish a comprehensive RE baseline report on the ECOWAS region** by March 2013
- **Guide on how to adequately assess their national renewable energy resources** and some guidance on existing models or available expertise that could contribute to the assessment. ECREEE will implement at least four regional RE potential assessments on PV, CSP, wind and bio-energy by March 2013. SSHP and further bioenergy assessments will be made available by end of 2013. Highly qualified expertise will be required to ensure that each national renewable energy resource assessment is validated and credible for project developers through an operational and realistic evaluation calibrated to selected criteria such as distance to the main grid for grid connected applications, potential local demand for isolated applications such as SSHP or reliability of the resource for biomass.
- **Guide on how to assess the national grid conditions** to connect renewable energy capacity. ECREEE will develop, in cooperation with the WAPP, standard methods to assess the required grid improvements and costs in order to secure physical transport capacity, frequency stability, adequate dispatching facilities and sufficient regulating capacity to connect a series of typical new renewable energy capacities. This assessment will also be valuable for identifying energy efficiency measures to reduce losses in the grid. A grid strengthening plan would need to be prepared for each country. This

exercise would need to be done in tandem with the resource assessments so that sites for individual projects/parks can be synergised and feed into each other.

- **Guide for integrated rural electrification planning** taking into account the least-cost options between grid extension plans and off-grid renewable energy solutions. This guide will enable a clear demarcation between on-grid and off-grid rural electrification, showing the impact of hidden costs in the less economic share of on-grid rural electrification that constitutes often a 100% subsidy to supplied isolated localities.
- Start to **mainstream the EREP into a revised ECOWAS/UEMOA White Paper on energy access** with a time horizon by 2030, to be implemented by the end of 2013;

4.6 Action 2: Each Member State will develop or revisit their National Renewable Energy Policy (NREP) with an associated implementation strategy and a five year rolling action plan

4.6.1 Regional targets

At the regional level, targets for renewable energy penetration have been identified and are set for different segments of the energy market (grid-connected, mini-grids, stand-alone and micro systems, biofuels, charcoal production, domestic energy, LPG) to ensure the achievements of the ECOWAS White Paper on access by 2020 (target 2015) and the universal access by 2030 as defined in the Chapter 3 on "Targets":

4.6.2 Setting National targets

The regional targets have been developed on global assumptions that will be refined through the preliminary studies developed under the EREP Action 1. Each Member State will develop or confirm a set of national targets for renewable energy applications, according to their detailed resources assessment and their grid capacity to connect renewable energy over the time. A preliminary guidance to weight renewable energies in each country is given in the previous chapter on "targets".

National targets will be based on the most appropriate least-cost technology options for the different energy market segments: grid-connected, off-grid, stand-alone and micro systems, domestic energy, LPG, charcoal production. These targets will be developed in accordance to the regional targets set. Some countries already have specific policy covering some aspects of the regional renewable energies, for example the CILSS countries with their domestic energy strategy (Burkina, Mali, Senegal, and Ghana) with a biofuel strategy, and many countries with a more or less recent renewable energy policy and strategy (Cape Verde, Ghana, Liberia, Senegal, Nigeria).

4.6.3 Developing a National Renewable Energy Policy (NREP)

Based on the targets and the selected technology options, Member States will **develop a policy and an implementation strategy covering the period up to 2030. The policy will contain a five-year action plan with a rolling budgeting plan** following the time schedule of the national budget.

The Member States will also **select a modus operandi for implementing their NREP**: a modus operandi that can be different from a supply segment to another. **The measures chosen will generate a need to adapt**

the national legal and regulatory framework for grid-connected and off-grid renewable energy production (renewable energy plants and individual renewable energy equipment for self-consumption and as energy efficiency measures).

- **Grid-connected operations**

Member States will have to consider the following principles:

- Guarantee through their Transmission System Operator (TSO) and Distribution system operator (DSO), the purchase and transmission of all available electricity from renewable energy-based electricity producers. While renewable energy-based electricity plant owners bear the cost of connection, grid operators must cover part (at least 50%) or all the cost for system upgrade, if required. All upgrade costs must be declared to ensure the necessary transparency.
- Establish stable and long-term favourable pricing mechanisms and ensure unhindered access to the grid for renewable energy IPPs and PPPs. Derogation can be applied for Member States that wish to develop net-metering and distributed renewable energy production[4] schemes in a pilot development phase.
- Make commercial regulations which embrace authorized renewable energy sources application and connection procedures, costs incurred by each party, tariff, and billing arrangements.
- Make technical regulations that specify the requirements for a renewable energy generator to connect to the grid. These include responsibilities of each party, criteria for synchronization (acceptable voltage levels, frequency, power factor, etc.) required protection relays, and provisions for emergency disconnection.
- The present grid code already developed by the WAPP should be revised to incorporate renewable energy-based power generation. These regional rules, which shall authorise access of IPPs and PPPs (including renewable energy IPP) to the regional grid, shall provide suitable sets of commercial and technical measures and standards for connection to the grid and sale of electricity to any consumer. This will require a reform of the legal and regulatory national framework for Member State power sectors as free access to the grid is only granted in Ghana and Nigeria (Sources: WAPP).

- **Modus operandi**

The Member States will have to select a Modus Operandi suitable to their situation. The two approaches can be:

- **Quantity-based approach** where the public authorities set a goal to be reached by setting mandatory quotas to the electricity distribution utilities (Renewable Portfolio Standard: RPS) or through competitive biddings (tendering the required capacity as IPP after an agreement between the Member States' government and its utility or TSO).

[4] Net-metering and distributed production corresponds to a domestic RE production for self-consumption with excess power production sold to the grid. The grid is used to balance the net demand of the producer.

- **Price-based approach** with the purchase obligation system imposed on electricity companies at guaranteed prices (feed-in tariff) and provision of the legal and regulatory framework for renewable energy production business.

Off-grid operations

ECOWAS Member States should prepare separate rural electrification policies which would promote the construction of mini-grids and stand-alone power systems including a large share of renewable energy in areas not covered by the electricity grid (off-grid) to provide least-cost power services for local economic activities and sustainable living. Policy support for renewable energy should further be demonstrated by increased budgetary allocations in most countries. As previously emphasized, the prerequisite of real least cost off-grid operation is the strict application of the **all-inclusive/integrated rural electrification planning**.

Member States should apply the following guiding principles:

- No new grid extension proposal should be considered for a particular area unless there is a cost benefit analysis vis-a-vis the decentralised renewable energy option.
- Where grid supply is given, all households should be connected, and connection costs should be rationalised.
- Some guidance regarding sizes of villages (e.g. <200 households), distance from the grid (>20 Km) should be considered so that grid extensions would not reach those communities, at least for the present.
- Some simple regulatory measures could be designed for renewable energy based mini-grids.
- Regulations and subsidy schemes during the 'technology learning period" shall be considered to ensure an acceptable end consumer tariff which could be differentiated for different kinds of consumers and a reasonable return to the investor.
- A minimum renewable energy threshold shall be set up for such systems.
- Similar subsidy support should be available for stand-alone systems. In case the system is financed by a bank, the subsidy should be released to the bank.

Given the number of official stakeholders engaged in Rural Electrification activities and the specificities of each country (national utilities, rural electrification agencies and funds, electricity cooperatives, private investors, renewable energy services companies, local banking systems with loan schemes to finance SHS,...), the **modus operandi** will be selected for each market segment (mini-grid concessions, quotas for larger concessions, etc...) and adapted to each Member States situation.

Wood-fuel and domestic energy

The NREP for these issues will be developed in close cooperation with the forestry department managing the woody resources, the associations of wood-loggers, charcoal burners and woodfuel transporters, the association of improved cook-stoves manufacturers and associated NGOs (cook-stoves dissemination, biogas plant dissemination, briquettes production). A participative approach should be adopted to set revised targets for domestic energy in order to achieve within 5 to 10 years' time frame the objectives defined by the ECOWAS/UEMOA White Paper for energy access.

- **Biofuels strategy**

Based on the experience gained by four ECOWAS Members States (Mali, Senegal, Burkina Faso and Ghana) in formulating biofuels policy, implementation strategy, and with already existing commercial small scale biofuel production (Mali and Burkina Faso), a specific regional policy will be developed by ECOWAS. The policy will build on the precautionary principle to ensure that biofuel production does not conflict with food production. The Member States, which decide to include biofuels in the NREP will take advantage of the experiences developed in the mentioned countries.

- **Gender Mainstreaming**

Gender Action Plan as part of the NREP with objectives, outcomes, activities etc. will be developed by the Member States.

4.6.4 The contribution of the ECOWAS Renewable Energy Policy (EREP) to the development of National Renewable Energy Policies (NREP)

- **Harmonisation of the approaches - Guidelines to ensure coherent approaches:** ECREEE will develop planning guidelines to ensure a coherent and comprehensive approach for renewable energy planning in the different ECOWAS Member States. The guideline will provide advice and recommendations ensuring a broad and active contribution of the national stakeholders associated with these activities. Special attention will be given to the civil society, the consumers associations and the NGOs, the private sector (manufacturers and energy services providers) and the banking sectors.
- **Technology guidelines.** Based on the EREP baseline report and several reports dealing with renewable energy technologies and costing approach, a practical guideline covering the major renewable energy least cost options will be prepared and distributed through the National Focal Institutions to the national renewable energy officials and regulators to provide pertinent costs information enabling the decision making on the technology basket. An assistance to adapt the panel of identified least cost options to the different ECOWAS regions or Member States will be provided.
- **Developing models for PPA, FIT, Quotas, rural electrification concession, mini-grid concession, credits schemes and RESCOs.** All these legal, technical, and financial documents will be developed as regional paradigms at the regional level through the collaboration between ECREEE and ERERA, to provide models to the national renewable energy officials and regulators, when implementing the NREP.
- **Standards for renewable energy equipment and systems.** In close cooperation with the Bureau of Standards of UEMOA, the regional research institutes working on renewable energies and the regional/national branch organisations representing the renewable energy sector, assisted by an international expert organisation on renewable energy standards, ECREEE will launch **a regional conference** to compile the existing standards regarding renewable energy and energy efficiency and biofuels in the ECOWAS region, to assess the needs for new standards. Based on the results of this conference, the ECREEE will finance in close cooperation with the relevant regional R&D institutes, the development of new standards to be validated by the ECOWAS and UEMOA specialised bodies.

- **Gender Mainstreaming:** Advocacy to include gender policy and vision in the institutional framework as well as a guideline to mainstream gender in the NREP is prepared by the ECREEE in close collaboration with ENERGIA and ABANTU for Development.
- In addition to the above, ECREEE will contribute ("learning by doing") to the formulation and the development of NREPs through the implementation of several programs in the different technology areas to create an enabling environment: (i) the ECOWAS Renewable Energy Facility (EREF) for peri-urban and rural areas; (ii) a regional small scale hydro power program and bioenergy program will be launched in 2013; (iii) the US$50 million energy component of the GEF Strategic West Africa Program (SPWA), which is co-financing renewable energy and energy efficiency projects in all fifteen ECOWAS countries, is coordinated in cooperation with UNIDO; (iv) ECREEE operates the ECOWAS Observatory for Renewable Energy and Energy Efficiency (ECOWREX).
- Preparation of a **regional implementation strategy for the attainment of the rural RE targets** of the EREP (White Paper) by end of 2013.
- Launch **call for proposals of the ECOWAS Renewable Energy Facility on mini-grids** to be launched by mid of 2013

4.7 Action 3: To make renewable energy power production an attractive business for private investors/entrepreneurs

Enhancing the financial viability of national utilities is a cross-cutting issue for ECOWAS Member States and a prerequisite to make renewable energy power production an attractive business for private investors/entrepreneurs. The financial health and reliability of a national energy sector is a major condition to create confidence for potential private investors. That means a sector that has a reasonable debt with regard to its turnover and with tariffs ensuring a proper level of auto-financing after reimbursement of the debt. In addition, specific measure will contribute to boost the penetration of renewable energies in the energy mix:

- License/concession agreements as well as the general regulatory framework shall be simplified ("fast track procedure") and its cost lowered for the investors to provide additional incentives for eligible renewable energy investments.
- Incentives to local renewable energy manufacturers and assemblers (code of investments, taxes holidays) shall be proposed and coordinated among ECOWAS countries.
- Subsidies to alleviate up-front costs for technology moving towards a fully competitive production. Subsidies shall meet incremental costs for producing agreed quantity of renewable electricity through approved sources. To ensure an efficient allocation of resources, subsidies shall be allocated through competitive bidding or other control mechanisms to avoid the free riders profits.
- Taxes and duties exemptions on specific components to avoid unfair competition for imported ready-made equipment need to be considered by the Member States.
- Technical standards and skill certification will be developed in cooperation with UEMOA.
- Public awareness on regional produced devices will be promoted to ensure the emergence of a regional market for renewable energy applications and devices.

- Efforts to involve women in business activities (producers, operators, managers, entrepreneurs, etc.) will be put in place.

4.8 Action 4: Capacity development

4.8.1 At regional level

A Capacity Development Needs Assessment for skills and competences within renewable energy will be carried out and implemented by ECREEE in collaboration with regional training institutes. Based on the assessment, ECREEE will develop a regional capacity building programme by March of 2013. Complementarities between regional and national capacity development activities will be enhanced. At the regional level:

- Train-the trainers Networks for different RE issues and aspects will be established by ECREEE in cooperation with local vocational institutes. A pool of trainers will be created. Two or three major institutes will share the leadership of this network, which purpose is to propose professional vocational and graduate training in renewable energies. Curricula and renewable energy training courses will be developed and made available through the network.
- Specific training packages for renewable energy business development will be carried out targeting all relevant stakeholders and based on best tools available on the market (e.g. RETScreen, HOMER):
  - Entrepreneurs and project developers;
  - Renewable energy national officials and regulators to help and assist them in the development of their NREP;
  - Local Banks and financing institutions on renewable energy financing.
- Network of regional and international experts will be made available by ECREEE through several cooperation programmes established with international public and private organisations and Networks (UNIDO, IRENA, GIZ, AIEA, ARE, CLUB-ER, etc.). South-south cooperation will be strengthened.
- Capacities in the areas of RE potential assessments and measurements will be strengthened.

4.8.2 At national level

Capacity development at the national level shall also cover development issues such as project implementation, management, operation, and long term sustainability; hence, it shall be conducted for national decision makers and field operators:

- Training of renewable energy national officials and regulatory authorities will be organised. Sessions gathering a few countries will be organised to reduce the transaction costs.
- Renewable energy curricula will be introduced at the national universities and technical institutes assisted by the regional network.
- Practical renewable energy courses will be introduced at the utilities national training centres and opened to trainees from the private sector.
- Training of national craftsmen and electrician will be carried out.

Attention to gender issues will be raised throughout the action implementation.

4.9 Action 5: Financial intermediation

4.9.1 At regional level

ECREEE will be instrumental to mobilise additional financial resources for the development of renewable energy in the ECOWAS region:

- ECOWAS and ECREEE will organise donors, financiers and project developers round-tables to make the EREP visible and credible in order to mobilise the required ODA and private finances to its implementation;
- ECREEE will develop fund raising activities to secure further calls of the ECOWAS Renewable Energy Facility (EREF) for small scale projects in peri-urban and rural areas to support the EREP and NREPs;
- ECREEE will play a lead role in pooling projects for 'green financing' and develop in-house the required expertise to reduce the transaction costs usually associated to this type of project through the ECOWAS Renewable Energy Business and Investment Initiative;
- Guaranty funds for regional/national banking sectors will be negotiated with the international development and funding organisation.

4.9.2 At national level

In each Member State a rolling investment plan for the sector will be prepared including the investments for the EREP. This plan will be financed from different financial sources: (i) from the resources of the sector (tariffs and taxes), (ii) from the national allocations to rural electrification and renewable energy; (iii) from international financial institutions and ODA funds; and finally,(iv) a growing share will be financed by the private sector, through private investors and promoters or private financial institutions. For this share and eventual financial gaps to be filled, the national level can request support from the regional level fund raising and B2B activities.

Specific actions will consist in:

- Nationals officials will develop efforts to mainstream renewable energies in the EU/WB/AfDB/AfD/others' energy programmes.
- Budget lines for renewable energy will be integrated in the national rolling budget systems including a minimum budget set for renewable energy initiatives for gender/women.
- Renewable energy and Rural Electrification Funds will be established and/or adapted to become real financial specialised institutions with an established capacity to raise funds and lend to national private developers.
- Information towards the national banking institutions is carried out through meetings and national conferences.
- Fiscal measures regarding renewable energy businesses and biofuels are developed.
- Tax exemptions are proposed to reduce end-users tariffs.

4.10 Action 6: Advocacy, Awareness and Knowledge Management

4.10.1 At regional level

ECREEE shall be instrumental in Knowledge Management, sharing best practices, lessons learned from successes and failures, and establishing a regional network of renewable energy professionals:

- ECREEE will establish the GIS based ECOWAS Observatory for Renewable Energy and Energy Efficiency (EOWREX) which will provide regularly updated market information on renewable energy policies, business opportunities, potentials and contacts in the ECOWAS region. The Observatory will be established under the umbrella of the UNIDO-GEF project "Promoting Coordination, Coherence and Knowledge Management under Energy Component of the Strategic Program for West Africa (SPWA)".
- ECREEE will organise annual Forums with renewable energy professionals (National - Regional - foreign entrepreneurs), on a Business to Business (B2B) approaching order to stimulate the technology and business transfer to the region. These events will be organised in partnership with private sector networks and association (e.g. Alliance for Rural Electrification).
- ECREEE will produce an annual RE investment and business report in cooperation with other partners (UNIDO, IRENA, REN-21).
- ECREEE assists UNIDO in the implementation of the GEF Strategic West Africa Program.

4.10.2 At national level

- **Awareness campaigns and materials will be broadcasted on national TV and radio** (e.g. competition of best Renewable Energy business idea), in national language and local dialect to address remote rural areas, promoting the image of renewable energy as a full-fledge power supply, fully commercial product and cost competitive. Energy efficiency aspects will be integrated into the campaigns.
- **National forum for renewable energies backing up the national policy development**

  The national officials and the regulator will create in collaboration and with support of the NFIs, a national renewable energy forum gathering together individuals representing a broad spectrum of the society having interest in renewable energy development, like such as those in agriculture and industries, NGOs, and some national officials from other departments. This forum will comment and enrich, as a backing group, the development of the NREP.
- **Renewable energy days with information and training sessions**

  Back to back to major commercial or cultural events, renewable energy days will be organised to bring together the national renewable energy associations, branch organisations and NGO's in order to promote awareness on renewable energy sources.
- **Sensitisation on renewable energies in schools**

  In order to sensitise the up-coming generations, pedagogic materials containing information on renewable energy and the necessity to protect the woody resources will be developed based on the experience of some ECOWAS countries (e.g. Renewable Energy introduced in schools in Ghana) and distributed in the 15 Member States. Furthermore, information sessions on renewable energies will be organised in schools.

4.11 Synopsis of the Regional Renewable Energy Policy

	PILLAR	Specific Actions	Strategic objective	Actors/leader
Regional Level	Preliminary activities	Strengthening regional institutional Framework	• Relations with WAPP and ERERA, developed and intensified • NFIs geared to ensure a proper interface between regional and national level • Provide RE planning support for Member States to prepare NREP	ECREEE + cooperation with WAPP/ERERA
		Regional RE Potential Assessments	• Publication of a comprehensive RE baseline report end of 2012 • By March 2013, at least four regional assessments for PV, CSP, wind, bio-crops are made available. SSHP and further bioenergy assessments will be made available by end of 2013.	ECREEE + Possible cooperation with UNIDO, IRENA, ESMAP, USAID
		Development of RE potential assessment Guide for the Member States (MS)	• By March 2013, a methodology and guidelines are prepared to help the MS in carrying out an operational and valuable assessment of their RE resources (see further activities under capacity building).	ECREEE
		Development of an all-inclusive rural electrification policy	• A guide for all-inclusive rural electrification enabling to delineate the off-grid market and showing impacts of hidden costs is available • Start to mainstream the EREP and EEEP into a revised ECOWAS/UEMOA White Paper on energy access by end of 2013	ECREEE
		National Grid assessment	• Standard methods to assess the grid's and the system's capacity to connect RE productions (dimension, stability, dispatching functionalities, regulating power capacity) and evaluate the cost of grid extension for RE connection to the grid and EE measures to reduce losses are developed	ECREEE + WAPP
		Synergies to the ECOWAS Energy Efficiency Policy	• Synergies with the EEEP are sought (renewable energy applications to suppress electricity uses and cook-stoves initiative)	ECREEE
Regional Level	Policy and Action Plan	Regional Targets	• Regional targets for renewable energy penetration are stated by EREP and adopted by the ECOWAS Ministers • Launch preparation of a regional biofuel policy by March 2013	
		Harmonization of the approaches :	• By March 2013: Guidelines to ensure coherent approaches for the development of NREPs are available	ECREEE

	PILLAR	Specific Actions	Strategic objective	Actors/leader
Regional Level		• Technology assessment	• Technology guidelines & Panel of least cost options are developed for different regions or for different MS	ECREEE
		• Models for FIT, PPA	• Models for PPA, FIT, Quotas, rural concessions are developed	ECREEE + ERERA
		• Standards for RE equipment and systems	• A regional conference to compile existing standards regarding RE and EE and biofuels in the ECOWAS region is launched to assess the needs for new standards	ECREEE+UEMOA
		Regional RE technology promotion programs	• Several technology promotion programs are launched by ECREEE (e.g. small scale hydro, EREF, bioenergy program) • Preparation of a regional implementation strategy for the attainment of the rural RE targets of the EREP (White Paper) • Call for proposals of the ECOWAS Renewable Energy Facility on mini-grids to be launched by mid of 2013	ECREEE
		Gender Mainstreaming	• Advocacy to mainstream gender into the institutional framework • A guideline to mainstream gender into the NREP is prepared	ECREEE + partners (e.g. ENERGIA, ABANTU for Development)
		Forum on NREPs development	• A forum on the preparation of the NREPs is organized	ECREEE
		Monitoring system to assess RREP	• Monitoring system to assess progress of the EREP implementation	ECREEE
	Capacity Building	Regional capacity building program formulated	By March 2013 a capacity needs assessment is undertaken and a capacity development program for the next five years formulated	1 ECREEE + UNIDO, IRENA, AIEA, ARE, EUEI-PDF, GIZ etc.

	PILLAR	Specific Actions	Strategic objective	Actors/leader
		Establishment of local train-the-trainer networks in cooperation with institutions, universities and individual experts	• A network of local training institutes and pool of trainers for different RE training is created • Train-the-trainer training packages on different issues are available and workshops organised • Funding to support national follow-up trainings secured	2 ECREEE + UNIDO, IRENA, AIEA, ARE etc.
		Capacity building on RE business development	• Training network on business development for entrepreneurs and projects developers operational	3 ECREEE + UNIDO, IRENA, AIEA, ARE etc
		Capacity building on RE financing	• Training network on financial structuring, planning and appraisal of projects for local banks, financing institutions and project developers established (e.g. RETScreen, Homer)	4 ECREEE + UNIDO, IRENA, AIEA, ARE etc
		Capacity building on RE resources assessments and measurements	• Training network on RE potential assessments and measurements established (e.g. SSHP hydrology assessments, wind)	ECREEE + UNIDO, IRENA, ESMAP, AIEA, ARE etc
	Financial Intermediation	EREP donors round-table	• Donors round-table organised to make the EREP bankable	ECOWAS + ECREEE
		Fund raising for rural renewable energy projects	• Fund raising for reformulated ECOWAS/UEMOA White Paper on energy access and mainstreaming of RE&EE • Fund raising for further call for proposals of the ECOWAS Renewable Energy Facility in peri-urban and rural areas	ECREEE
		Fund raising for a pipeline of medium to large scale RE projects	• ECOWAS RE Business and Investment Initiative launched to pool medium sized and larger projects for green financing; project pipeline prepared;	ECREEE + development banks, private investors
		Guaranty Fund	• Guaranty funds negotiated for regional /national banking sector	ECREEE
	Knowledge Management, advocacy and awareness	Knowledge Management	• ECOWAS Observatory for Renewable Energy and Energy Efficiency is established. The official launch will take place in October 2012. Further RE resource assessments undertaken; • Coordination of the energy projects of the Strategic Programme for West Africa (GEF-SPWA) in cooperation with UNIDO	ECREEE with support of UNIDO-GEF
		Communication and Awareness raising	• RE&EE Awareness campaigns materials to be broadcasted on national TV and radio are developed • Annual RE investment and business industry report published	ECREEE + REN21, IRENA, UNIDO

	PILLAR	Specific Actions	Strategic objective	Actors/leader
		Advocacy and awareness with renewable energy Professionals	• Forum with renewable energy professionals (Regional – foreigners; business to business	

	PILLAR	Specific Actions	Strategic objective	Actors/leader
National Level		Off-grid operations	• Based on all-inclusive Rural electrification planning, independent RE systems are planned for off-grid areas choosing a modus operandi for different market segment (mini-grid concessions, larger rural electrification concessions, stand-alone systems standards)	ECOWAS MS
		Wood-fuel and domestic energy	• The ministry in charge of energy in close cooperation with its homologs from environment and commerce develops a national approach seeking the banning of inefficient stoves by 2020 and inefficient charcoal burning by 2030	ECOWAS MS, CILSS, ECREEE
		Gender Mainstreaming	• Gender Action Plan as part of the NREP with objective, outcomes, activities etc. is developed.	ECOWAS MS
	Make Renewable Energy as an attractive business for private investors/ entrepreneurs	RE Incentive schemes	• General regulatory framework is developed as simple and low-cost for investors to provide additional incentives for RE investments. tools include: incentives for manufacturing, subsidies for up-front costs, tax & duties exemption, technical standards and skill certification	ECOWAS MS
		Gender Mainstreaming	• Involve women in business initiatives (producers, operators, managers, entrepreneurs, etc.)	ECOWAS MS
National Level	**Capacity Building**	Establishment of local train-the-trainer networks in cooperation with institutions, universities and individual experts	• pool of trainers created • training for Renewable Energy officials/regulatory authorities upon request from NFIs, regional sessions can be organized to reduce costs • RE curricula are introduced at universities and technical institutes • Practical RE courses implemented at utilities training centers • Craftsmen and electricians trained • National RETScreen and HOMER training carried out • Attention to gender issues will be raised	ECOWAS MS
	Financial Intermediation	Energy Sector Investment Programmes	• Overall energy sector investment programmes are developed including RE investments. The financial gap is identified after all existing financing sources have been exhausted (sector resources through tariffs, government contribution through finance law,	ECOWAS MS

	PILLAR	Specific Actions	Strategic objective	Actors/leader
			traditional funding institution and private sector)	
		Energy Sector Investment Programmes	• Efforts are made by national officials to mainstream Renewable Energy in donors' programmes	ECOWAS MS
		National Budget	• Specific budget lines for RE planned in the national budgets	ECOWAS MS
		Renewable Energy Funds	• Renewable Energy or Rural Electrification Funds established / adapted to become real financial institutions with an established capacity to raise funds and lend.	ECOWAS MS
		Banking institution awareness	• Meetings and conferences for banking institutions organised	ECOWAS MS
		Fiscal Measures	• Fiscal measures and tax exemption are developed and proposed	ECOWAS MS
		Gender Mainstreaming	• Minimum budgetary target set for RE initiatives for gender/women	ECOWAS MS
	Knowledge Management, advocacy and awareness	National Forum	• National Forum gathering all actors interested in Renewable Energy to back up the NREP development and implementation	ECOWAS MS
		Communication and Awareness raising	• Every year a Renewable Energy Day organised for associations, NGOs etc.	ECOWAS MS
		Awareness raising in schools	• RE introduced in schools using material prepared at regional level	ECOWAS MS

4.12 Time frame of implementing the policy and monitoring

During the first two years following the approval of the EREP by the Energy Ministers of the Region, each Member State shall strengthen the national and institutional framework with the guidance and support from the ECREEE for the harmonisation of the approaches and guidelines to ensure that approaches are coherent with the regional framework set. This process shall bring Member States to develop a NREP with setting or confirming national renewable energy targets, selection of the modus operandi for grid and off-grid operation, wood-fuel and biofuel energy:

Year 1:

- Member States establish as needed their national legal and institutional framework, identifying the national officials in charge of renewable energy planning;
- All necessary guides, curricula, training sessions are prepared by ECREEE and all available information is distributed to the MS through the NFIs;
- The ECOWAS Observatory for Renewable Energy and Energy Efficiency (ECOWREX) and other knowledge products (e.g. RE potential assessments, RE baseline report) are published to inform investors and developers on existing opportunities.
- RE capacity needs assessment undertaken, regional capacity building program formulated and train-the-trainer networks on different RE issues are operational;
- Member States will initiate in close cooperation with the regional level all capacity development activities necessary for developing a NREP (energy planning support - e.g. MESSAGE model);
- Member States will assess their needs for updating their renewable energy resources data and start consequently the required updates;
- ECOWAS/White Paper on Energy Access revised, regional rural RE implementation strategy formulated and EREF call on mini-grids launched;
- A Regional Conference launching the process is held in the region. This event will offer opportunities to back-to-back training activities.

Year 2:

- National Renewable Energy Policies are adopted by Member States with an associated implementation strategy and a five-years rolling action plan and necessary budgetary allocation.
- According to the NREP and action plan, all countries will have mainstreamed renewable energies in their national institutional and regulatory frameworks. According to the country, actual situation and the choices taken in terms of modus operandi, the following elements of the legal and institutional framework will be updated:
  - National Energy Policy
  - Electricity Law
  - Renewable energy and rural electrification framework
  - Tariffs for electricity supply and services
  - Role and competence of the national regulator.
- Throughout the entire process, specific financial means will have to be raised both at regional and national level to:

- Promote regional standards, as for example capitalising on the Bureau of Standardisation already existent in UEMOA.
- Promote investment and financing initiative for IPP medium-large scale projects
- Support renewable energy business and enterprises creation through the EREF and other instruments
- Develop technical capacity (regional curricula, specialisation of existing centres, make network of international experts available, train national officials' regulatory bodies, technicians, etc.)
- Develop awareness through:
    - Campaigns
    - Pilot applications
    - ECOWAS Observatory for Renewable Energy and Energy Efficiency

- Completion of RE resources/potential assessments
- The ECOWREX continues to provide reliable and updated data
- Regional technology promotion programs are under implementation (e.g. small scale hydro power, bioenergy, mini-grids)
- Train-the Trainers networks are consolidated and delivered
- Financing for projects of the ECOWAS Renewable Energy Facility and the ECOWAS Renewable Energy Investment and Business Initiative mobilised

4.13 Monitoring progress under the EREP

ECREEE will develop a monitoring and reporting system in close collaboration with NFIs and national officials. Under the umbrella of ECREEE, a steering organisation will be put in place to follow and guide the implementation of the EREP. The steering committee will hold bi-annual meetings, back to back to the ECREEE board meetings or to regional events during the first two years, and on an annual basis afterwards. Monitoring and revising the policy according to developments is absolutely critical for its longer-term relevance.

Annex I: Detailed targets for grid-connected and off-grid EREP scenario and financial assessments

The table summarises both the existing medium and large hydro capacity for the WAPP, the planned capacity as stated in the WAPP revised master plan and the EREP scenario.

Table 13: Grid-connected renewable energy targets

in MW of installed capacity	2010	2020	2030
Load forecast ECOWAS, in MW peak load	10,659	25,128	39,131
WAPP existing RE in MW (medium and large hydro)	3,447	3,447	3,447
WAPP RE projects in MW (medium and large hydro)		2,825	7,893
WAPP total RE capacity (medium and large hydro)	3,447	6,272	11,340
WAPP RE Penetration in % of peak load	32%	25%	29%
EREP renewable energy options in MW	**0**	**2,425**	**7,606**
EREP renewable energy options in % of peak load (excl. medium and large hydro)	0%	10%	19%
Total RE penetration (incl. medium and large hydro hydro)	32%	35%	48%

in GWh of produced electricity	2010	2020	2030
Load forecast ECOWAS - Energy demand in GWh	65,696	155,841	243,901
WAPP existing RE production (large hydro) in GWh	16,965	16,965	16,965
WAPP RE projects - production (large hydro) in GWh		10,529	29,879
WAPP RE total production (large hydro) in GWh	16,965	27,494	46,844
WAPP RE production Share (large hydro)	26%	18%	19%
EREP renewable energy options – production in GWh	**0**	**8,350**	**29,229**
EREP renewable energy options - % of electricity demand (excl. medium and large hydro)	0%	5%	12%
RE production Share	26%	23%	31%

The EREP renewable energy options (scenario) complement the WAPP Master Plan which is mainly based on gas and large hydro. The EREP will add a considerable share of new renewables to the electricity mix. Due to the lower capacity factors of most of the new renewable energy technologies, the amount of electricity produced in comparison with the WAPP projects will be relatively low by 2020. The performance improves between 2020 and 2030 when CSP including storage will be introduced into the EREP scenario.

Grid connected EREP's options

It is expected that 2,424 MW of new RE will be installed by 2020 and 7,606 MW by 2030. The possible contribution of each renewable energy technology to the targets could be as follows: Wind 13%, Solar 28%, Hydro 33% and Biomass 26% (as presented in Figure 8). Until 2020, solar technology will be restricted to the use of PV which is less expensive and easier to implement than CSP technology. As of 2020, 1,000 MW CSP with energy storage is proposed as the investment cost is decreasing. In terms of energy produced, the different technologies have different capacity factors,

which mean that the production per installed MW can vary from 5,250 MWh/yr for biomass plants, to 3,900 MWh/yr for small scale hydro, to 2,600 MWh/yr for Wind and 1,600 MWh/yr for PV.

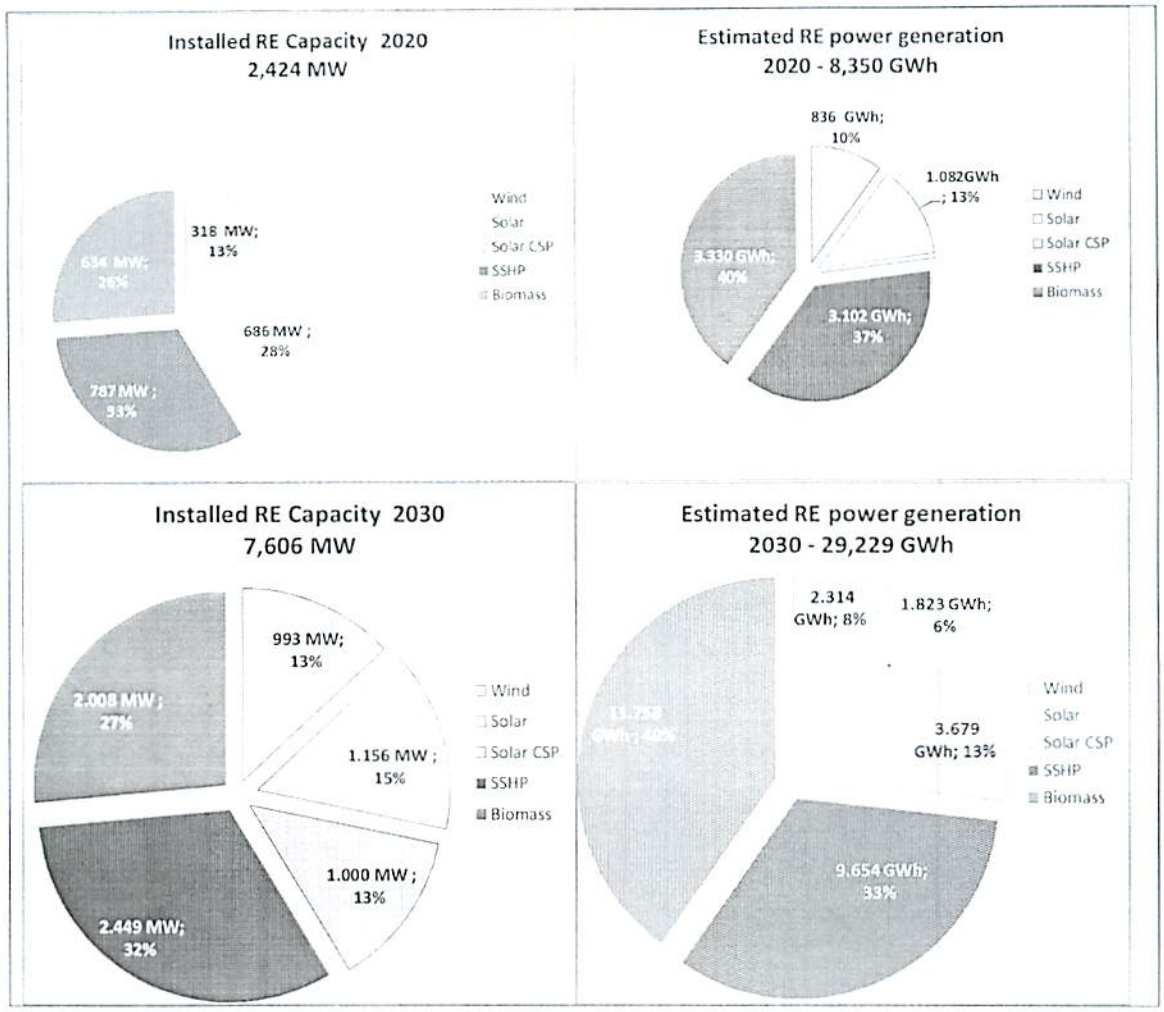


Figure 8: Grid-connected EREP scenarios

A tentative investment plan for the EREP scenario is developed in order to assess the financial viability of the proposal. As illustrated by the figures below, when it comes to initial investment, the cheapest technologies are large wind turbines and solar PV (it looks different when it comes to the economics). In general, the price for wind turbines or PV still remains higher than in developed countries due to certain barriers. Larger wind turbines (several MW) cannot be used in many cases in West Africa due to the lack of appropriate cranes. However, for both technologies it is expected that their investment cost will be close to €1 million/MW in 2030.

For biomass, it is expected that the size of the biomass plants will grow over time with the modernisation of agriculture, reducing considerably the investments costs. Stating a cost for small scale hydro is often difficult as the cost of civil works will depend on the specific condition of the selected location.

If the CSP has reached its technological maturity, its cost still reflects the fact that the technology is entering its commercial phase. It is expected that the cost of CSP with storage capacity, which is relevant for the ECOWAS region with a developing late evening peak load, will decrease over time to reach a level comparable to small scale hydro plants. That is the rationale for deferring the deployment of this technology to 2024 when the investment cost is expected to be €4 million /MW.

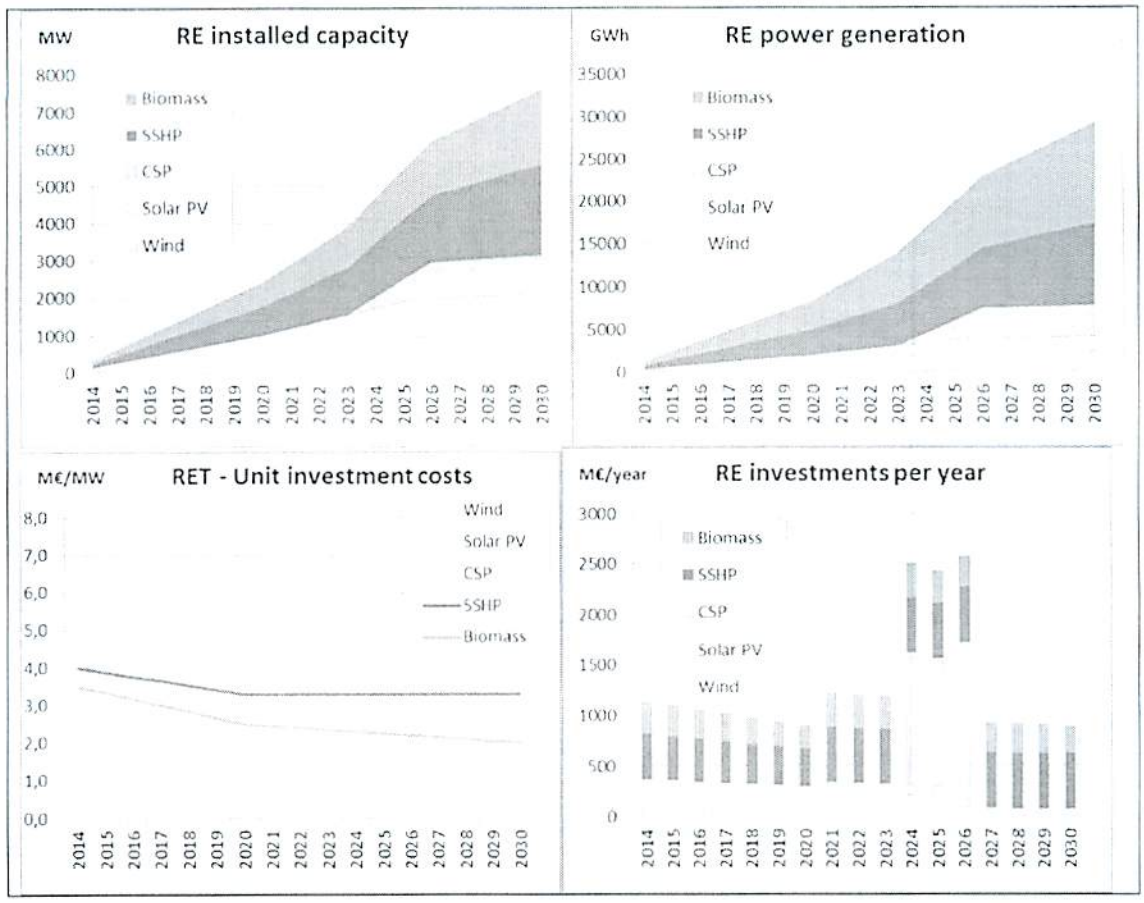


Figure 9: RE installed capacity and production 2014-2030, RE unit cost and investment needs 2014-2030

Economic least-cost assessment

A Least Cost Options Assessment (calculated as levelised cost of electricity) shows the competitiveness of the technologies applied in the EREP scenario compared to the envisaged marginal generation costs of the WAPP Master Plan Scenario as of 2018 and the LCOE for diesel production. The EREP options have to compete with the projected reduced generation costs in the individual countries after the implementation of the WAPP Master Plan priority projects mainly based on large hydro and natural gas.

Under commercial conditions, all the EREP renewable energy options are competitive with regard to diesel thermal generation. However, only biomass can compete with the WAPP marginal costs. On average, the EREP package is 2c€/kWh more expensive than the WAPP option. Wind power and small scale hydro power are the most competitive options apart from bioelectricity (as shown in Figure 10).

However, it should also be noted that the WAPP scenario shows an ideal case and it might be that, in the end, the marginal generation costs of the scenario are higher than projected or some of the projects are not implemented as planned.

Under soft loan ODA conditions (long repayment period 25 to 40 years, low rate of interest typically 1.5 to 2% and 5 to 10 years grace period), the EREP package is fully competitive with the WAPP, biomass and small scale hydro is cheaper than the WAPP options, the wind technology is competitive and only the solar options remains more expensive.

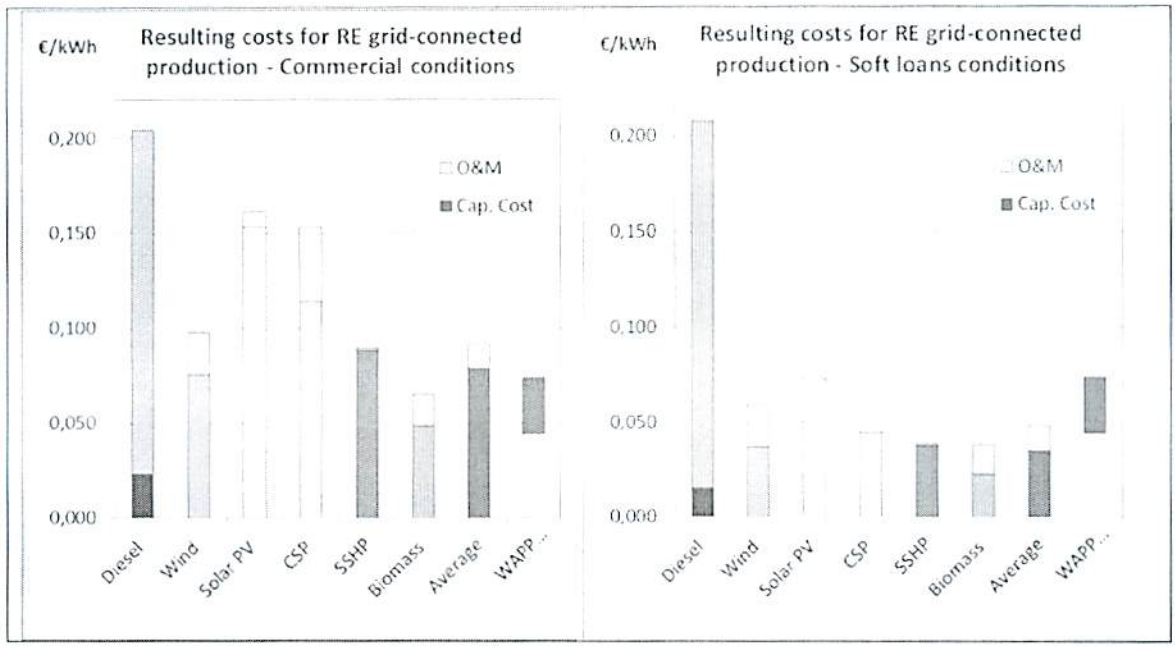


Figure 10: Cost simulation with commercial (left) versus soft loan ODA (right) financial conditions

The low part of the bars in the figure above represents the capital costs and the top the O&M costs. The figure below shows the competitiveness of the EREP scenario in relation to the WAPP Scenario but also to anticipated grid parity in individual country groups.

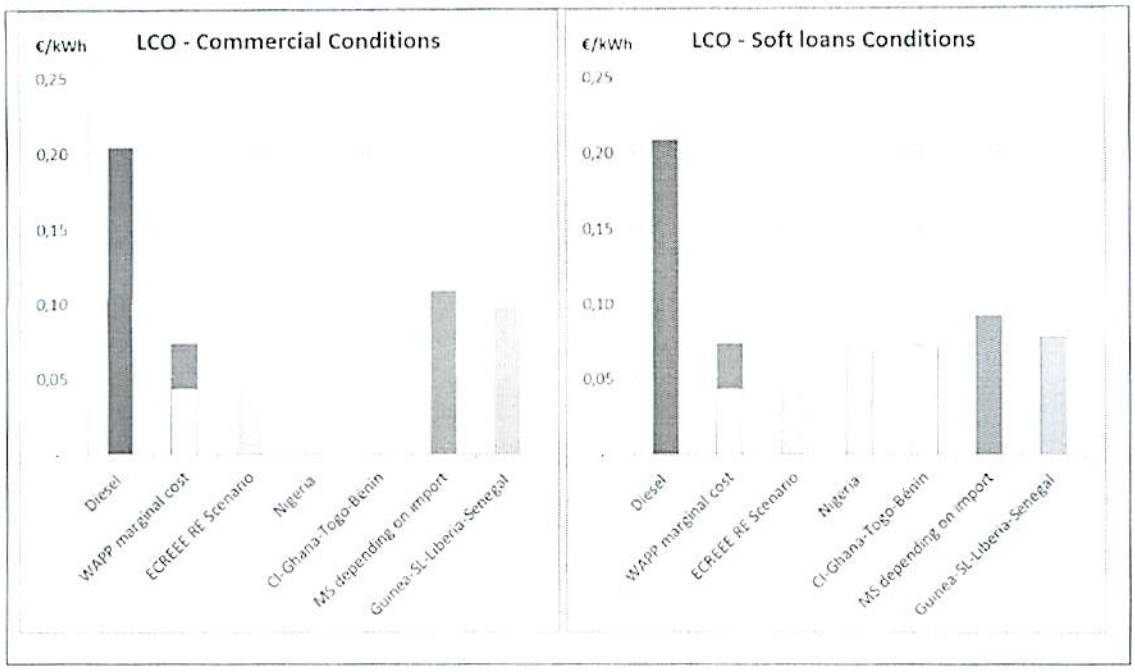


Figure 11: LCOE for the EREP scenario

The two first columns show the LCOE (levelised cost on a 25 years period) for diesel generation and the range of marginal costs for the WAPP options to the countries. The green columns represent the LCOE for the EREP scenario for all ECOWAS countries calculated on a 25 years period, the next (orange) is the LCOE for Nigeria; the yellow columns represent the LCOE for Cote d'Ivoire, Ghana, Togo and Benin, dark blue for the LCOE for Burkina, Guinea Bissau, Mali, Gambia, and Niger, and light blue for the LCOE for Guinea, Sierra Leone, Liberia and Senegal.

Under commercial financial conditions with the private sector investing in EREP renewable energy options, the EREP scenario constitutes a financially better option for all new capacity that can substitute oil-based thermal production to 2018 or later on when they have access to the WAPP options. The average benefit is 0.7 c€/kWh for the countries that will have the cheapest WAPP options due to their hydro potentials or a large coal production, and 1.7 c€/kWh for the countries relying on future WAPP interconnection. Due to the decreasing investment cost for all EREP renewable energy options during the period, some technologies will become competitive with the WAPP options.

Under ODAs' conditions, the EREP scenario is a financially better solution for all the ECOWAS countries. However, it cannot be recommended as the solution to finance the EREP. Nevertheless, by targeting a possible limited financial support to avoid that, EREP scenario could avoid to be a financial burden for countries like Nigeria, Ghana, Cote d'Ivoire, Togo and Benin. A sensibility analysis shows that a 3.6% reduction on the commercial conditions will be sufficient to bring the LCOE for EREP scenario in line with the WAPP marginal costs from Nigeria, Côte d'Ivoire, Ghana, Togo and Benin.

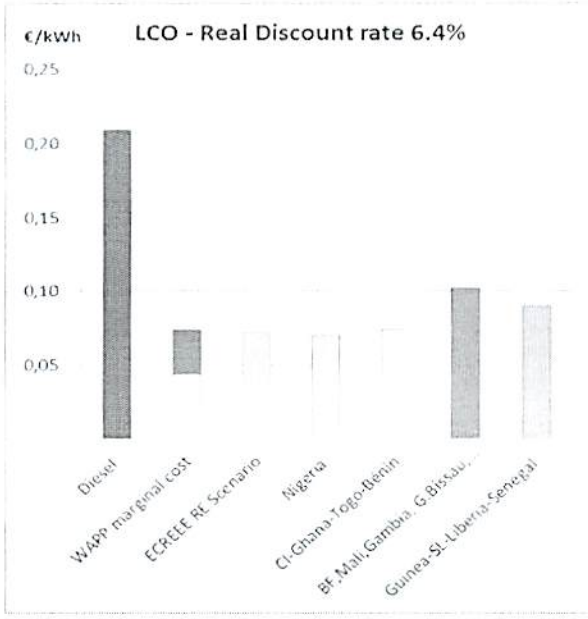


Figure 12: LCOE for softer conditions

Finally, accounting for the externalities in the LCOE calculation (See annex 3), the EREP scenario becomes competitive with the LCOE for Nigeria, Côte d'Ivoire, Ghana, Togo and Benin and is quite lower for the other countries. When considering the negative environmental externalities of conventional generation in the economic assessment (e.g. pollution GHG emissions), the ECREEE/EREP scenario becomes more attractive under commercial conditions. The LCOE is equivalent to the LCOE Nigeria and Côte d'Ivoire-Ghana-Togo-Benin (see Figure 13).

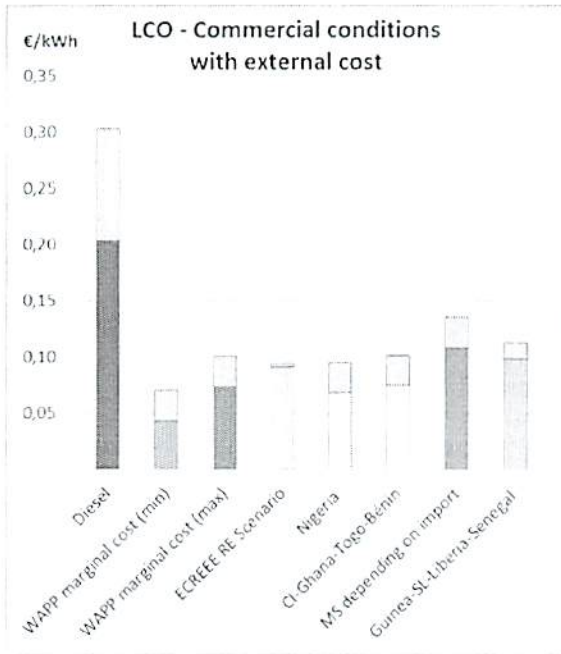


Figure 13: Analysis of the electricity access situation in the ECOWAS

Mini-grids, stand-alone or micro systems

Actual access rate in the ECOWAS region

The actual status of the energy access situation is summarised in the following charts. It relies on data from UNPD report on General Energy Access in ECOWAS Region - UNDP Dakar – Regional Energy Poverty Project – 2011, corrected for some factual and compilation errors; for example Mali's national access rate is 28% instead of 17% and the regional electricity access rate is 42% instead of 27%.

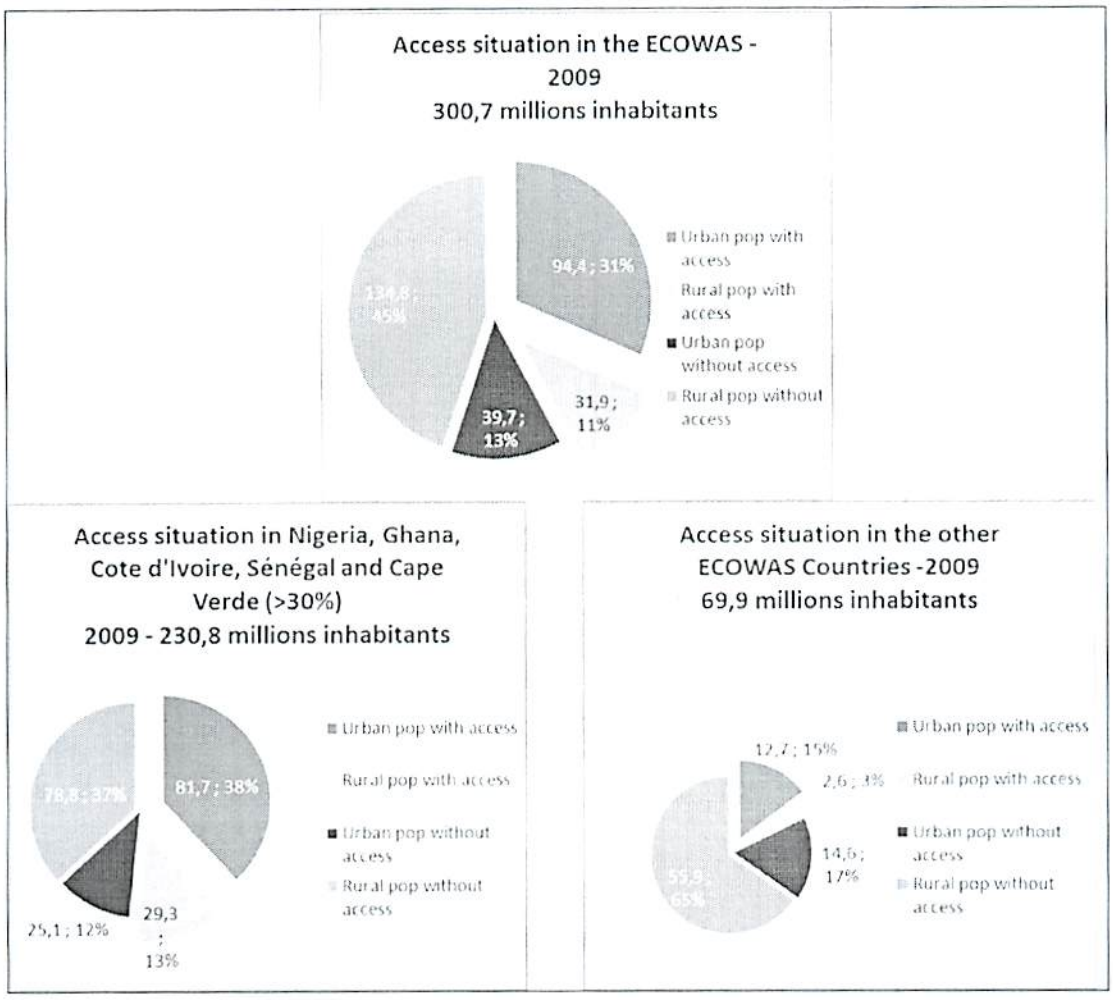


Figure 14: Analysis of the electricity access situation in the ECOWAS

For the ECOWAS region, 19% of the rural population have access, mainly the major rural centres and some localities under the lines. And 81% of their rural populations are left without access. Six countries already have a significant national electricity access rate in 2009, greater than 30%. These are Cape Verde (87%), Ghana (66.7%), Nigeria (50%), Côte d'Ivoire (47.3%), and Senegal (42%). For these countries 25.1 million urban people and 78.8 million rural populations had no access to electricity in 2009. For the remaining 10 countries, only 18% of the population in average had access

to electricity with most of them in urban areas (83%). 82% of the total population live without access among them 80% is rural.

Modelling the correlation population and localities for the WAPP

Another important parameter to take into account is the spatial distribution of the population according to the size of their settlements, as urban cities and large rural towns will be easier to be supply by the grid than smaller scattered villages in remote areas. As demographic data are poor at the regional level, especially regarding the number of localities, a model developed for this purpose gives the following pictures of the ECOWAS population distribution on 213,700 localities having a population higher than 200 inhabitants:

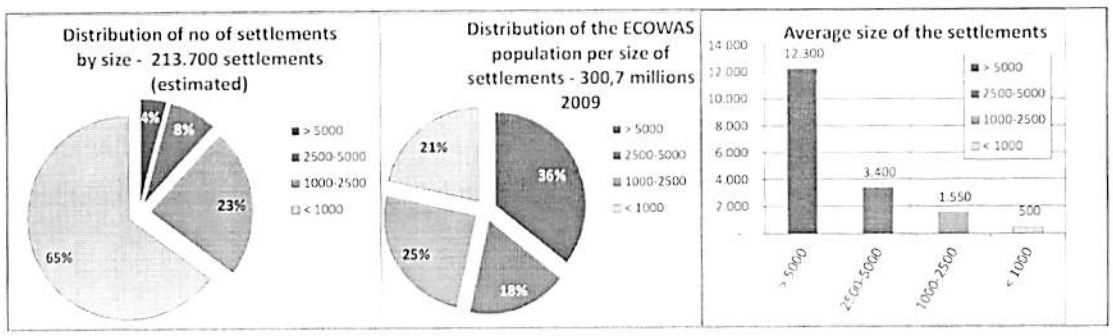


Figure 15: ECOWAS population and settlements (distribution by size of settlements)

Beyond these estimated 213,700 localities, there are a lot of smaller settlements gathering together few rural compounds with a total number of inhabitants smaller than 200. This population will be supplied through micro stand-alone equipment. Access through grid extension cannot reach all the localities as the cost of the line will be exorbitant in regard to the energy delivered. Based on this assumption and a correlation between the populations that have access to electricity (access rate) and the number of localities that are supplied (dispersion rate for grid connected localities), rithat will be supplied through the grid and those which will not be connected, such as localities with small population, those far from the grid or those in the periphery of the grid extension programme. These localities according to the UN universal access objective will benefit from renewable energy generation through mini-grid supply systems or through stand-alone equipment such as SHS, which will evolve to micro AC power system, household biogas plants and solar lamps.

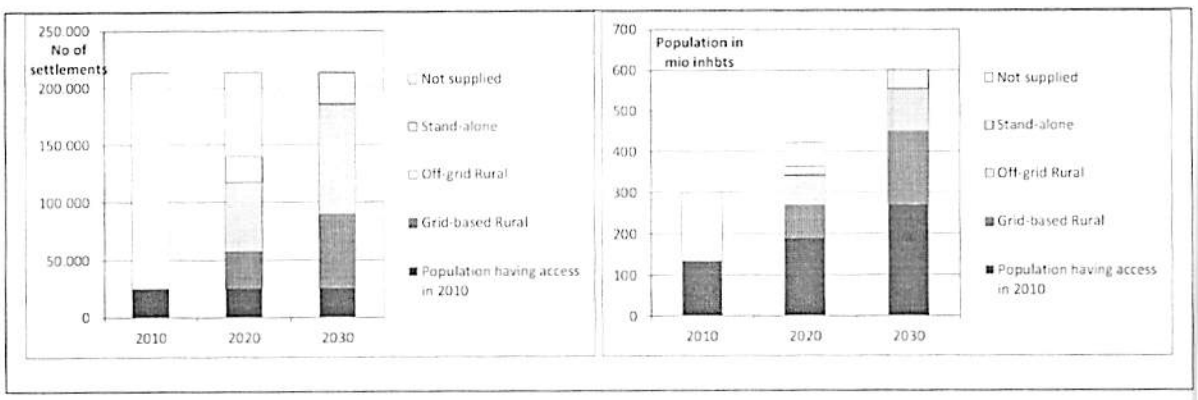


Figure 16 : Scenario for electricity supply in the ECOWAS region

The chart demonstrates clearly that even if 65% of the population in 2020 will have access to electricity through the grid, only 27% of the localities will be connected and 73% of the remaining localities will be without access if mini-grid solutions are not introduced.

Table 14 : Synthesis of the ECOWAS electrification modelling

	Population in millions inhabitants			Localities		
	2010	2020	2030	2010	2020	2030
ECOWAS	300.7	421.0	601.4	213,700	213,700	213,700
Grid connected supply (existing 2010)	135.2	189.3	270.4	25,666	25,666	25,666
New grid-based rural		81.3	179.5		32,055	64,110
Off-grid Rural		71.4	104.3		59,836[3]	96,165
Stand-alone Rural		21.0	47.2		(22,438)[2]	(27,781)
Un-served population	165.5	58.0	0	188,056	73,726	0
	2010	2020	2030	2010	2020	2030
ECOWAS	100%	100%	100%	100%	100%	100%
Grid connected supply (existing 2010)	45%	45%	45%[1]	12%	12%	12%
New grid-based rural	0%	19%	30%	0%	15%	30%
Off-grid Rural	0%	17%	17%	0%	28%	45%
Stand-alone Rural	0%	5%	8%	0%	10%	13%
Un-served population	55%	14%	0%	88%	34%	0%

1) The real figure is 42% - statistical difference in model calibration
2) No. of settlements (< 200 inhabitants) but not exhaustive – registered differently country by country
3) Some of the off-grid localities as they have grown will be included in the grid extension and their EREP renewable energy options connected to the grid (support the voltage and reduce the community energy bill). The local distribution LV grid will be reused and extended.

It is expected that 64% of the overall ECOWAS population will get access through the grid by 2020 corresponding to only 27% of the localities. The figures for 2030 will be 75% of the overall ECOWAS population having access through the grid corresponding to 42% of the localities.

Grid-connected rural electrification cost

Figure 17 illustrates the distribution cost for a 100 km rural distribution line (54.4 mm^2 Almelec) as a function of the population density served by the line on a 30 year period. For commercial conditions (10% on the chart) the cost of distribution is about 6.2 c€/kWh in an optimised configuration (all the localities under and in the vicinity of the line are connected). Generally this does not occur as the cost of transformers to serve small settlements are too expensive with regard to the electricity sales. In the case of non-optimised use of the line, the distribution cost can double to 12 c€/kWh. The minimum and maximum LCOE for a WAPP option are calculated to be 8 and 13 c€/kWh, respectively. This cost includes 15% losses up to the consumer. The resulting on-grid rural electrification cost can be assessed to be between 20 and 25 c€/kWh.

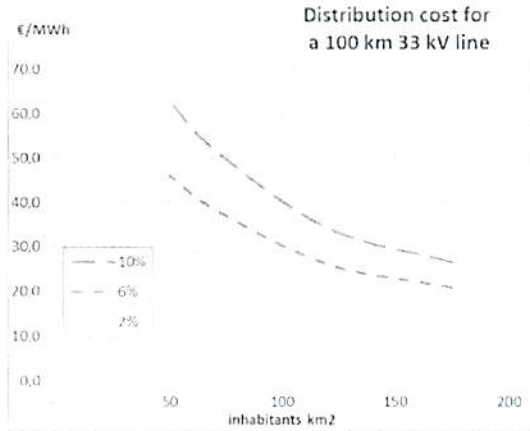


Figure 17: Optimised rural distribution cost for a 33 kV line

Diesel generation cost

With an average unit consumption of 350 g/kWh and a levelised price for DDO taking into account a constant price escalation of the barrel price of 1.84% up to 2020 and 1.19% after 2020 (IRENA assumptions), the fuel cost per kWh produced is about 33 c€/kWh. The capital cost can be estimated to 2-3 c€/kWh.

Mini-grid dimensioning and costing

Compared to the fuel cost to a diesel thermal production, the capital cost of the mini-grid per kWh is lower than the DDO cost of 33 c€/kWh, as shown in the calculation below. A simple return on investment shows that fuel expenses can pay back the investment in 7.2 years for the investments made during the period 2014-2020 and 5.2 years for the other investments.

Assumptions

Locality average size:	1200	inhabitants
No of inhabitants/household	8	
No of household	150	
No of connections/km LV line	30	
Length of the LV grid	5	km
Unit price in €/km	9,000	€

Grid investment cost	
45,000	€

Average cost for generation			Investment in generation	
2014-2020	3,500	€/kW	175,000	€
2021-2030	2,500	€/kW	125,000	€
Unit load demand - 1.5 A @ 220 V	50	kW		

Total investment costs in M€	No of mini-grid	Invest per mini-grid	Total investment	
2014-2020	60,000	0.22	13,200	M€
2021-2030	68,000	0.17	11,560	M€
2014-2030			**24,760**	M€

Financial assessment

Energy production /unit	100	MWh	
Diesel consumption	35,000	kg	
DDO price /kg (Levelised)	0,94	€/kg	
Fuel expense	32,905	€/year	
Return on invest/fuel expenses	5.3	years	2014-2020
Return on invest/fuel expenses	3.8	years	2021-2030

Capital cost - 2014-2020	19	c€/kWh
Capital cost - 2021-2030	14	c€/kWh

Fuel cost for diesel generation	33	c€/kWh

WAPP LCOE max 15% losses	8	c€/kWh
WAPP LCOE min 15% losses	13	c€/kWh
Distribution cost	>12	c€/kWh
Resulting on-grid supply	20<<25	c€/kWh

Compared to a 'fictive' on-grid rural electrification tariff, since these localities will not be connected to the grid, the mini-grid is equivalent to a grid-connected solution over the period 2014-2020 and slightly more economic for the following period.

The stand-alone system's cost is calibrated on a 30/40 Wp solar home system which actually can be estimated to be €120. With an economic life time of 15 year and a maintenance cost of 60 € (1/2 of the investment) equally distributed on this period, the monthly fee to this service with a real discount rate of 10% is €1.42 or €17€/year.

Annex II: Scenario elaboration

Renewable energy sources assessment:

This assessment is based on several sources:

- The assessment done in the baseline report
- The ECREEE project pipeline
- Some national targets for countries having set such targets.

Baseline report's assessment

The potential for renewable energy resources in West Africa has been assessed in a separate renewable energy baseline report. The resources are generous and well distributed among the countries:

- Wind potential is concentrated on costal zones (Cape Verde, Senegal, Gambia, and possibly Ghana, Mali and Nigeria). The overall wind assessments provide only general information on the potential that need to be refined locally with a survey and a measurement campaign to verify the strength and the seasonal variation of wind regimes to state the financial viability of the potential.
- Small hydro potential is located particularly but not exclusively in the southern part of the region (Cote d'Ivoire, Ghana, Guinea, Guinea Bissau, Liberia, Togo and Sierra Leone) while solar resource is abundant in the northern regions (Niger, Burkina Faso, Niger and the northern part of Ghana and Nigeria).
- Except for Cape Verde and the Sahelean areas of Mali, Burkina Faso, and Niger, biomass resources are well distributed among the region, with a propitious potential in the Southern regions according to the pluviometry. When considering biomass resources, it is important to distinguish: (i) the diffused biomass resources from agricultural by-products, which are generally costly to collect and transport in large quantities, and for that reason can be used locally, and (ii) the concentrated resources at the agro-industry sites like rice husk, cotton seed shells, groundnuts and cashew shell, sawdust, manure and dung at dairies or slaughterhouses, which can constitute a proper resource for cogeneration. Under the same category are the urban wastes.
- Finally, solar resource is especially favourable in the northern desert areas of the ECOWAS region in Mali and Niger and in the North-Eastern part of Nigeria with a potential of 1700 kWh/installed kWp/year. The coastal areas of Liberia, Côte d'Ivoire, Ghana and Nigeria do not benefit to the same extent from this resource with an average potential of 1,200 kWh/installed kWp/year. For the remaining areas, the average potential is about 1,500 kWh/kWp/year.

Based on the data collected, a tentative matrix is presented in Table 15 showing a possible contribution of the potential energy resources for each country. This matrix is indicating the type of resources that are available and the share of these resources.

Table 15: Indicative ranking of RE resources by countries

	Wind	PV	Small scale hydro	Biomass
BENIN	10%	20%	50%	20%
BURKINA FASO	0%	60%	30%	10%
CAPE VERDE	90%	10%	0%	0%
COTE D'IVOIRE	0%	10%	50%	40%
GAMBIE	60%	30%	0%	10%
GHANA	25%	35%	30%	10%
GUINEE	0%	20%	50%	30%
GUINEE BISSAU	0%	20%	40%	40%
LIBERIA	0%	10%	50%	40%
MALI	10%	30%	30%	30%
NIGER	30%	50%	0%	20%
NIGERIA	10%	30%	30%	30%
SENEGAL	70%	10%	0%	20%
SIERRA LEONE	0%	10%	60%	30%
TOGO	0%	20%	50%	30%
Mines	0%	30%	70%	0%

The sum of the potential per country is 100%. 0% indicates that the resource is not available or not economically feasible, as for instance biomass and small scale hydro for Cape Verde. Three countries have good wind potential (Senegal, Gambia and Cape Verde), and therefore the wind resources are given a high ranking for these countries.

Countries like Mali and Nigeria, which have an equal distribution of their renewable energy resources, are given an average ranking of 30% for three resources (solar, biomass and hydro) and a 10% ranking for wind, as wind is more intermittent compared to the other resources. Even if there are good solar resources in Northern Mali, these resources cannot be fully exploited as it would require long transmission lines to transport the produced energy to the south. However, this resource can be used to supply the large cities in Northern Mali.

The line "Mines" shows that four countries with large mining potentials (Guinea, Liberia, Sierra Leone and Guinea Bissau) can draw advantages of their renewable energy potentials to supply directly their mining activities, which are located in remote areas far from the national grid. The two main sources are, by order of priority, the small scale hydro power and the solar PV. The mining activities generally need capacity between 30 to 150 MW.

These figures are indicative and have been used for the modelling of the EREP scenarios.

ECREEE's renewable energy projects portfolio

The ECREEE's identified renewable energy project pipeline has also been used to develop the EREP scenario (see Figure 18).

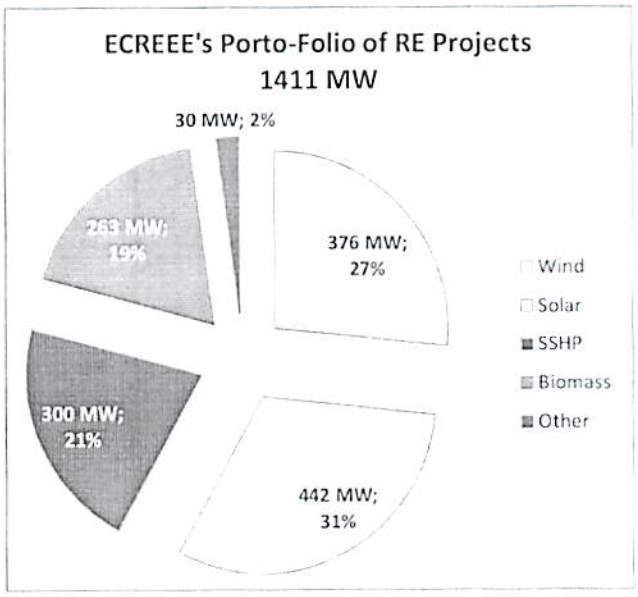


Figure 18: ECREEE's Port-Folio of RE projects

These projects have been identified by the NFIs and reflect the national priorities in terms of considered or discussed renewable energy projects. It has to be noted that the proposals from Nigeria with 259 MW does totally match with the size of this country.

National Renewable Energy Targets

From the national surveys, targets for RE penetration have been collected and are summarised in the following table.

Table 16: National Renewable Energy Targets

County\Target	Grid connected Electricity		Energy (heating, cooling)		Specific sector Target (off-grid/rural areas/non-electricity/for health or agriculture etc.)
	Short Term	Long term	Short Term	Long term	
BENIN	36% (945 GWh* 2015)	37% penetration (1700 GWh* in 2025)	NA	NA	NA (Rural elec. 170 localities by solar PV)
BURKINA	NA	NA	NA	NA	NA
CAPE VERDE		50% Penetration			
COTE D'IVOIRE	5% 2015	NA	NA	NA	
GAMBIA	NA	NA	NA	NA	
GHANA		10% RE penetration 2020			
Guinea			By 2013: 5% coverage of solar thermic for hot water and cooking	20% by 2025	Rural elec. through solar energy by 2015 (2% Moyenne Guinee; 4% Guinee maritime; 6% Haute Guinee; 1%Guinee forestiere) Rural elec. through solar energy by 2025: (6% Moyenne G; 12% G. Maritime; 19% Haute G; 3% G. Forestiere) 1% of coverage for rural elec. by wind energy (by 2025: 2% Moyenne G.; 3% G. Maritime; 3% haute G; 1% G forestiere) 5% of the demand in rural area covered by Biogaz digester in Short term (2013); 30% by 2025 Biofuels product on 2% of the demand by 2015
LIBERIA	30% RE penetration 2015	NA	10% of RE consumption 2015	NA	NA
Mali (1)		10% penetration by 2022		15% pen by 2022	plus 10%/per year of GWh generated from RE and per household from 2014 onwards
NIGER (3)		10% RE in energy mix 2020			Reduction of wood fuel use from 88% to 20% (2015) as share of wood fuel and agricultural wastes in the overall energy balance
NIGERIA (2)	5% 2015 (746 MW installed)	10% 2025 (2945 MW installed)	16% 2015	9% 2025	
SENEGAL		15% RE penetration in 2020 (Biocarburant, Hydro, RE)			
SIERRA LEONE	NA	NA	NA	NA	NA
TOGO	NA	NA	NA	NA	NA

* Ces valeurs sont la part d'EnR dans l'offre totale d'energie electrique

(1) SREP Mali Vol *

(2) RE Master Plan Nov 2005 page 19 and RE Policy Guidelines

(3) Stratégie Nationale et Plan d'Action sur les Energies Renouvelables 2007

Scenario building

The EREP scenario has been compiled as follows:

- The entry data are the load forecast for each country as computed by the WAPP revised master plan.
- The second step was to assess a possible penetration rate for EREP options corresponding to 2010 and 2020. A 10% and 20% have been discussed with ECREEE as entry point for the simulation.
- The targets are applied to the load forecast for each country, checking that the resulting capacity does not exceed 20% of the potential regulating capacity in regards for grid stability issues.

- Then, the proposed matrix for renewable energy resources ranking is applied to calculate the capacity for different energy sources and technologies. At this stage, the Concentrating Solar Plant is separated from the PV farm.
- The compilation results into a capacity to be installed in regards to the targets and the required investment.
- The EREP options have been separately and financially analysed in the base line report.
- The EREP renewable energy scenario is finally financially and economically assessed by using the LCOE method that involves the determination of the resulting levelised cost for the EREP scenario, covering both investments and operation and maintenance costs scheduled in the time according to the proposed investment programme. This LCOE is compared to a base-line LCOE without the EREP scenario i.e. a scenario for which each country is supplied at their actual marginal supply cost and at the WAPP marginal supply costs as of 2018. The LCOE exercise is developed for a 25 years period and applied to different market conditions: a commercial market condition with a real discount rate of 10% and an ODA's soft financial conditions for with a discount rate of 2%.

Annex III: Environmental externalities

In 2004, the average external costs of electricity production in the EU-25 were between 1.8–6.0 €c/kWh. Electricity production causes substantial environmental and human health damages, which vary widely depending on how and where the electricity is generated. The damages caused are for the most part not integrated into the current pricing system and thus represent an external cost. External costs for electricity are those that are not reflected in its price, but which the society as a whole must bear.

The external costs are the sum of three components associated with the production of electricity:

I. Climate change damage costs associated with emissions of CO_2

II. Damage costs associated with other air pollutants (NOx, SO_2, NMVOCs, PM_{10}, NH_3), i.e. impacts on health, crops, etc.

III. And other non-environmental social costs for non-fossil electricity- generating technologies.

Marginal damage cost factors in the case of CO_2 are not country specific (i.e. all countries share the same marginal factors for CO_2, one for low, €19/tonne and one for high €80 /tonne).

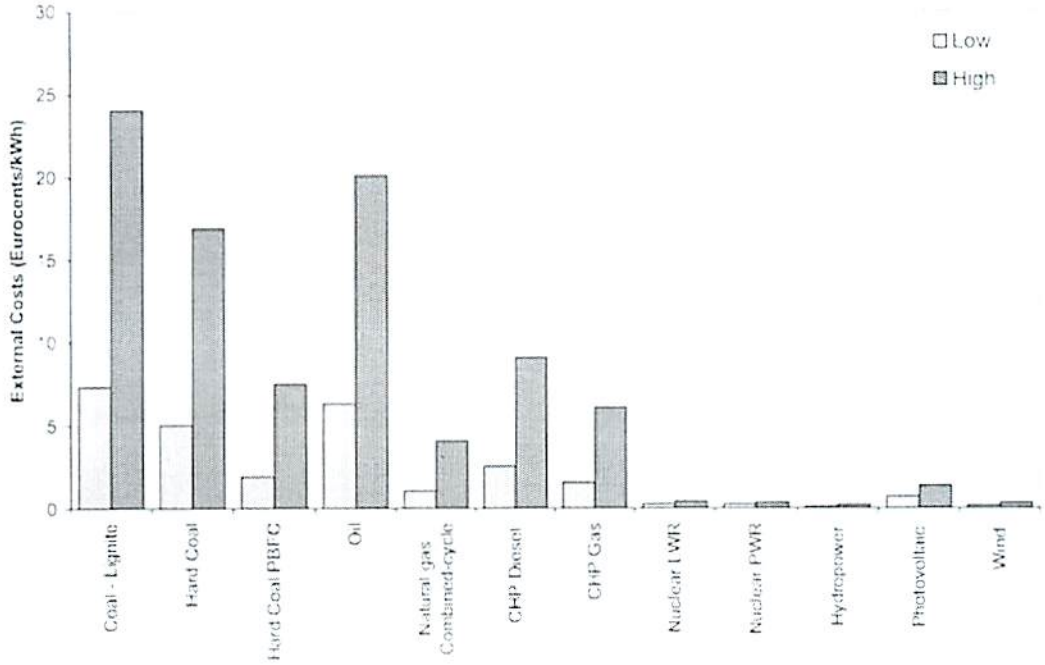


Figure 19 : Estimated average EU-25 external costs for electricity generation technologies

These external costs are not included in the conventional market prices for electricity, which contribute to inefficiencies in resource allocation decisions. By including external costs in market prices, such inefficiencies can be corrected.

For the purpose of the EREP the following marginal cost are considered

- Hard coal: 0,10 €/kWh
- Oil : 0,15 €/kWh
- CC and TAG natural gas 0,04 €/kWh
- Hydro: nil
- Wind: nil
- PV: 0,015 €/kWh

And for the WAPP with a mix of 3% RE, 5% coal, 55% gas, 37% hydro the resulting cost can be evaluated to = 0,0275 €/kWh

When considering the externalities, the ECREEE scenario LCOE is equivalent to the LCOE Nigeria and Côte d'Ivoire-Ghana-Togo-Benin

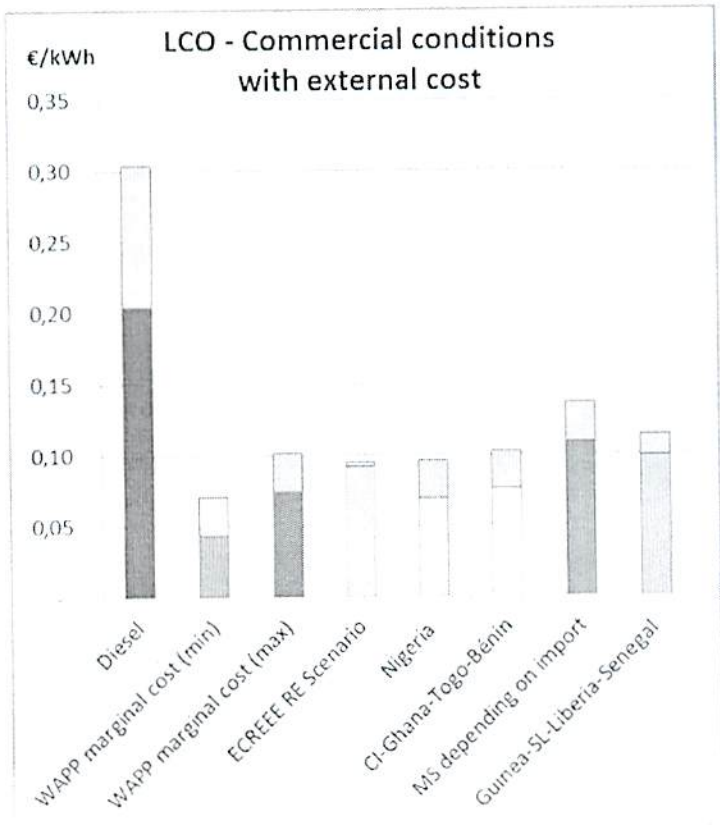


Figure 20: Impact of accounting negative externalities on production costs

Annexe IV: Domestic energy

Resources

The assessment of woody biomass resources is based on FAO Global Forest Resources Assessment done by FAO in 2005 (FAO – 2005). The forest area in the ECOWAS region is continuously reducing since 1990. With 133 million hectares in 1990, it was estimated as 116 million hectares in 2005, a 14% reduction over 15 years or in average 0.9% per year. These wooded lands cover both concepts of forest and woodland following the FAO categories.

Under sustainable management, the sustainable logging per hectare varies depending on climate zone. In the Sahelean region, it is about 0.3 t / ha of forest, in Sudan it may be estimated as 1.1 tonnes / ha, and in equatorial zone it can exceed 1.8 t / ha.

Given the location of six ECOWAS countries (Mali, Burkina Faso, Niger, Cape Verde, The Gambia and Guinea Bissau) mainly in the Sahelean and Sudano-Sahelean zone, an average conservative assumption regarding sustainable logging quantities per hectare of forest for all ECOWAS region is set at 0.8 tonnes per hectare.

Based on this estimated sustainable logging ratio per ha, the potential volume of sustainable woodfuel for 2005 can be roughly estimated at 93 million tonnes, as an order of magnitude. Given the continuing decline in forest areas, the potential sustainable supply is estimated as 89 million tonnes in 2010.

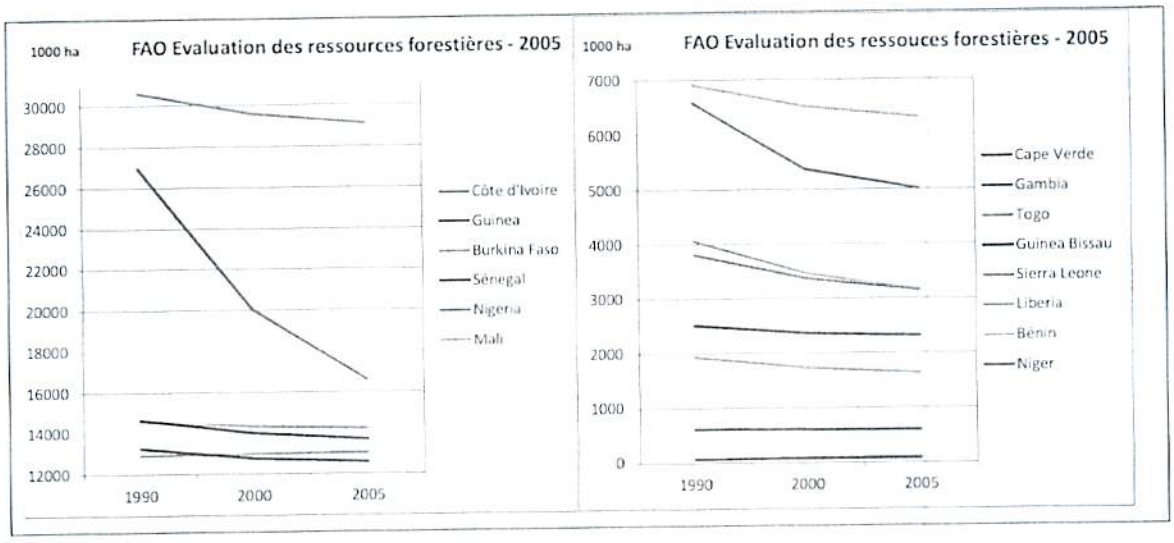


Figure 21 : FAO Global Forest Resources Assessment 2005

Four countries have maintained or increased their forested areas: Cape Verde, Cote d'Ivoire, Burkina Faso and the Gambia. For most of the other ECOWAS countries, these surfaces are strongly declining particularly Nigeria which has lost 62% of its forest area since the 90s.

As part of the evaluation of the CILSS firewood program (PREDAS), funded by the European Union, a number of conclusions have been drown for six CILSS countries which are part of ECOWAS, namely Senegal, Mali, Burkina Faso, Niger, Cape Verde, and Guinea Bissau. As a general statement, forestry potential remains adequate in regard to meet the woodfuel demand of these countries, although tendencies to over-exploitation emerges, especially for countries such as Mali, Niger and, to a lesser extent, Burkina Faso. The analysis shows that, even if these countries are mainly Sahelean, it would be possible to restore the balance between supply and demand through a proactive policy of sustainable natural resources management involving the participation of the local population and by developing and implementing a policy for efficient use of resources through the promotion of improved stoves. This should be done through public-private partnerships and through a moderate support to a fuel substitution policy from woodfuel to LPG.

Modeling the demand for wood energy

The assumptions of this model are:

- The average vital need for food cooking for a human being is estimated at 600 MJ in terms of useful energy, this corresponds to 731 grams of firewood per capita per day for cooking yield by 14%.
- The current average yields applied in the modelling are :

Cook-stove- fire wood – urban dwelling	15%,
Cook-stove- charcoal – urban dwelling	20%,
Cook-stove- fire wood – rural dwelling	12%
Charcoal burning	12%

- The entry key data are demographic: a population of 300 million inhabitants, nearly 45% is urban. This population will double by2030.
- The urbanization rate of 45% rises gradually to 50% by 2020 and 55% by 2025.
- The consumption of modern energies is estimated in the EREP baseline report at 300,000 tonnes of LPG and 666,000 tonnes of kerosene, mainly used in Nigeria. The cooking yield of these energies is estimated at 75%.

Due to urbanization, the share of consumption of charcoal in urban areas will increase from its current level of 50% to 80% by 2030. Currently, five countries are using charcoal as the first domestic fuel in urban areas - Senegal, Mali, Cote d'Ivoire, Ghana, and Benin. The migration from wood to charcoal is underway in Burkina Faso. Only Cape Verde and Niger use mainly firewood as primary energy. In the Gambia, the carbonization of wood is banned but The Gambia imports it from Casamance in Senegal.

Reference Scenario

ECOWAS POPULATION	2010	2020	2030
Population	300,7	421	600
Urbanisation rate	44%	50%	55%
Urban population	133,7	210,5	330,0

Unit consumption	0,6	GJ/cap/y
	0,731	Kg fire wood /cap/day

Cooking energy needs 10^6 GJ	180,4	252,6	360,0
-urban	80,2	126,3	198,0
-rural	100,2	126,3	162,0
Modern fuel			
LPG10^6 GJ	10,4	16,4	25,7
Kerosene10^6 GJ	20,8	32,8	51,4

Urban cooking energy10^6 GJ

LPG	10,1	15,9	24,9
Kerosene	13,9	21,8	34,2
Urban modern cooking fuel	24,0	37,7	59,1
Urban modern fuel %	30%	30%	30%
Woodfuel	70%	70%	70%
Urban Woodfuel 10^6 GJ	56,2	88,6	138,9
-fire wood %	50%	40%	20%
-charcoal %	50%	60%	80%
-fire wood 10^6 GJ	28,1	35,4	27,8
-charcoal 10^6 GJ	28,1	53,1	111,1
-fire wood 10^6 tonnes	12,5	15,7	12,3
-charcoal 10^6 tonnes	5,0	9,5	19,8
Woodfuel 10^6 tonnes	48,4	83,5	154,0

Rural cooking energy

LPG	0,3	0,5	0,8
Kerosene	6,9	10,9	17,1
Rural modern cooking fuel	7,2	11,4	17,9
Rural modern fuel %	7%	9%	11%
Woodfuel	93%	91%	89%
Rural Woodfuel 10^6 GJ	93,0	114,9	144,1
-firewood %	95%	90%	80%
-charcoal %	5%	10%	20%
-firewood 10^6 GJ	88,3	103,4	115,3
-charcoal 10^6 GJ	4,6	11,5	28,8
-firewood 10^6 tonnes	49,1	57,4	64,0
-charcoal 10^6 tonnes	0,8	2,1	5,1
Woodfuel10^6 tonnes	55,0	72,1	100,8

Overall Woodfuel 10^6 **tonnes**	**103,4**	**155,6**	**254,8**
Needs of 10^6 ha sustainable forestry	129,21	194,54	318,55
Forest and wooded land 10^6 ha	111,40	102,02	93,43
Sustainable production 10^6t	89,12	81,62	74,74
Deficit in 10^6 tonnes	**-14,25**	**-74,01**	**-180,10**
Afforestation index	-16%	-91%	-241%

	2010	2020	2030
Efficient wood cook-stove - urban	15%	15%	15%
Efficient charcoal cook-stove c	20%	20%	20%
Efficient wood cook-stove - rural	12%	12%	12%
Efficient charcoal burning	14%	14%	14%
1kg charcoal = kg firewood	7	7	7

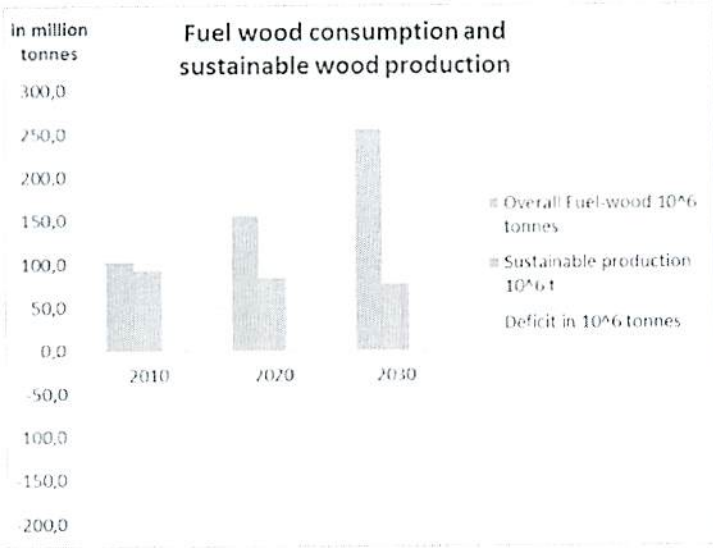


Figure 22: Reference scenario

In the reference scenario, the penetration of modern cooking fuel and cooking equipment is kept at their 2010 level, while the assumption of the consumption shift from firewood to charcoal is applied.

In this case, the total demand for tonnes of wood to meet the demand for firewood and charcoal grows from 103.4 million tonnes in 2010 to 155.6 million tonnes in 2020 and 254.8 million in 2030.

Already in 2010 the sustainable ECOWAS woodland's woodfuel potential is less than the actual demand which means an overexploitation of the resource that can be assessed at an 'over-exploitation's index of 16%, corresponding to the gap between demand and sustainable resource over this sustainable resource. If nothing is done, this index will increase rapidly to reach a value of 91% by 2020 and 241% by 2030, with rapid potentially irreversible deforestation as consequence.

Impact assessment of the improved cook-stoves

The first measure tested on this model is the reduction in woodfuel demand by implementing a policy of energy efficiency through the promotion of improved stoves for firewood and charcoal and seeking a substantial energy efficiency gain. The objectives of this policy are summarized in the following table:

	2010	2020	2030
Efficient urban wood cook-stove	15%	23%	30%
Efficient charcoal cook-stove	20%	28%	35%
Efficient rural wood cook-stove	12%	18%	25%

The objective is to significantly improve over a period of twenty years the efficiency of the stoves using firewood and charcoal. The development of regional standards and labels for quality efficient cook-stoves has to be carried out to have a common reference. The second action is to agree on a common regulatory framework by prohibiting manufacturing and sale of inefficient stoves by 2020 in order to avoid inefficient use of the resource.

In terms of actions, it is necessary first to promote the know-how needed to ensure the efficient production of good quality cook-stoves. This knowledge exists already. However it has to be compiled and disseminated. The craftsmen manufacturing these stoves need to be informed on the impending ban and offered support with the entrepreneurial approach in order to adopt models similar to the Malian one should be considered. In a short transition period, micro-credit schemes for low-income households should be available to support the behaviour shift in purchasing cooking stoves at a cost of €4-6. Nevertheless, it is essential to achieve a regional consensus on the obligation to manufacture and sell only improved stoves and to ban the inefficient ones. The longevity and efficiency of the improved stoves will, in the long term, generate a profit for the user. It is also necessary to avoid any idea of subsidizing this activity which should develop on commercial basis. In terms of results, this scenario has significant effects on the forest resources over-exploitation index as shown in following figure.

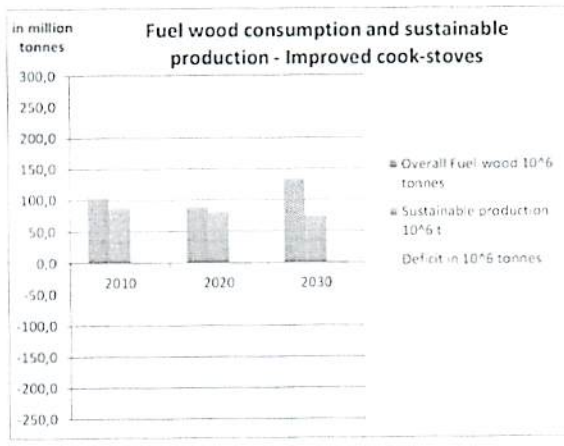


Figure 23: Efficient cook-stoves measures

The 2030 index that was of 241 % in the reference scenario is reduced to 86 %. Following the decision of banning the inefficient products from the market in 2020, the demand is dramatically diminished, reducing the pressure on the natural resources.

Efficient charcoal burning

The second measure tested is the performance improvement of carbonization which could increase from 12% today to 25% by 2030. A yield of 12% means that it takes 7 kilos of wood for a kilo of charcoal while a yield of 25% reduces the need for wood to 4 kg per kg of charcoal.

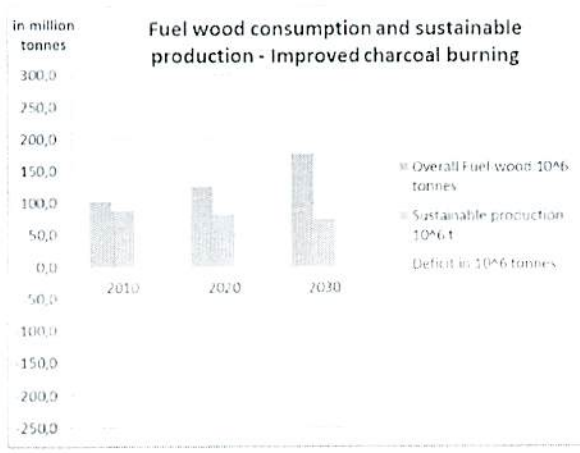


Figure 24: Efficient charcoal burning

This measure is also effective and helps to shift the forest overexploitation index of 241% to 136% by 2030.The implementation of this measure is more complicated than the previous one since it requires both a training component of charcoal burners to more efficient techniques, and at the same time, monitoring to ensure that these new skills are being effectively applied by charcoal burners. Illegal charcoal has to be controlled and eradicated. Since part of the production of charcoal is actually not controlled, this measure should be integrated as part of a policy for sustainable management of forest resources involving more directly the responsibility of the local population.

Combining both efficient cook-stove and efficient charcoal burning

By combining both identified measures (banning of inefficient cook-stoves in 2020 and inefficient carbonisation in 2030), the index for overexploitation is reduced considerably. From an overexploitation index of 11% in 2010, this trend could be stopped by 2020, as illustrated on the figure no 25, by a negative index of -15%, but will return to a value of 15% by 2030. As the woodfuels resources are not equally distributed, the issue of severe deforestation remains for Nigeria, if massive use of modern cooking fuel is not promoted.

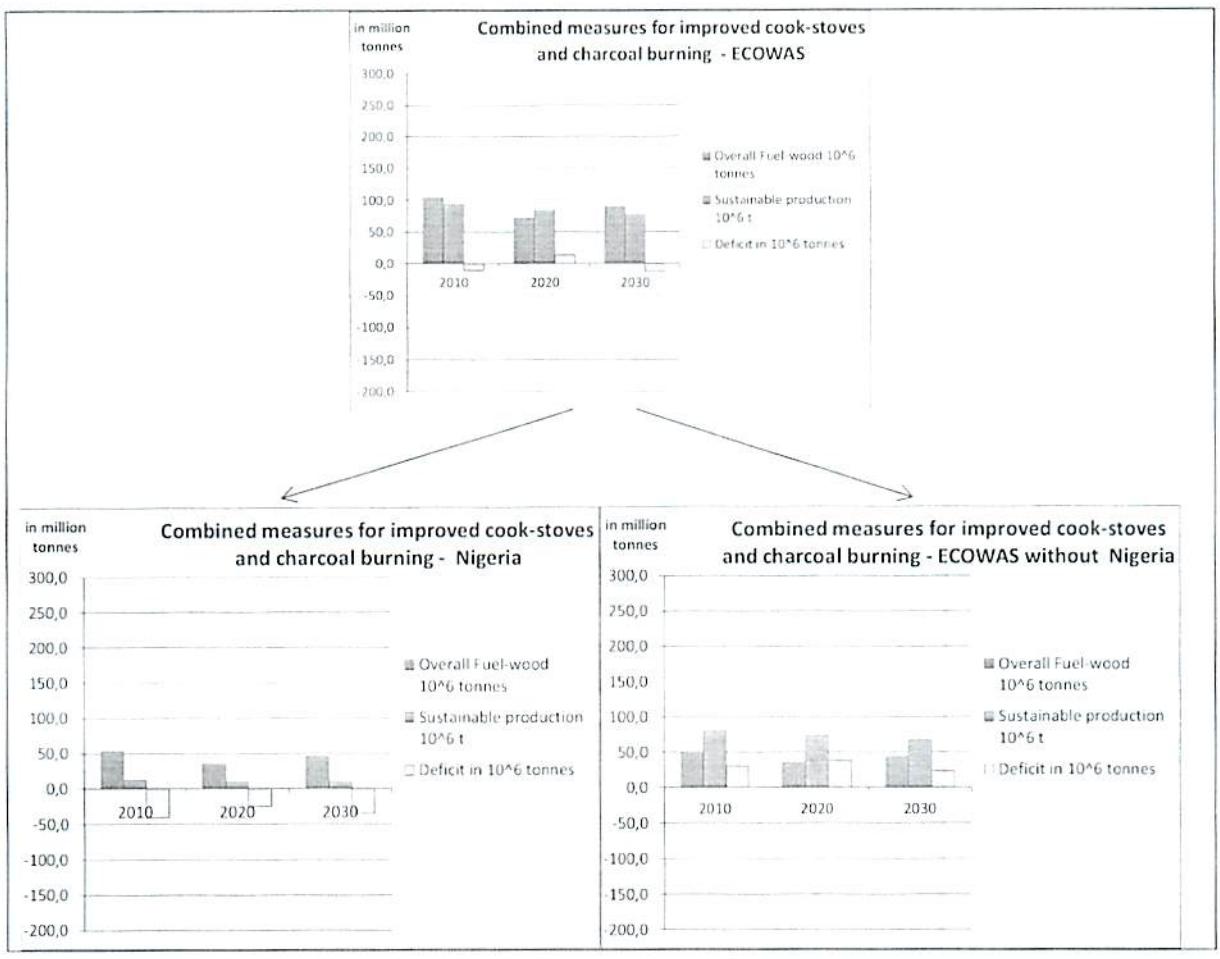


Figure 25 : Impacts of combining both previous measures

Substitution of woodfuels by modern fuels

The last practical measure that can be raised is to increase the share of modern energy in the mix of domestic energy in the ECOWAS. If utilised in a correct way, one of the benefits of modern energy is its high energy efficiency with a yield of 75%. Its drawback is the fact that they are petroleum products such as butane, kerosene, whose prices are relatively high if consumption is not subsidized. An alternative is to use biofuels produced locally, but prices are still not really competitive. Past policies have been subsidizing this type of energy. Increasingly, taking Senegal as example, governments are moving away from subsidies to pursue a policy of true prices. Burkina Faso, which still applies a large percentage of subsidies on the LPG cylinders under 12 kg, must pay under the finance law the subsidy amount of more than €10 million per year for the sale of 30,000 tonnes LPG, covering only 5-6% of the national domestic energy.

The actual baseline for modern cooking fuel is a penetration rate of 17% due to the large use of kerosene in Nigeria accounting for 2/3 of the 17%. The penetration rate is 12% for LPG in the ECOWAS countries excluding Nigeria, and 22% for kerosene in Nigeria.

Maintaining the level of penetration for modern cooking fuel will not be sufficient in the case of Nigeria even if both previous measures are fully applied. For the other countries, the overexploitation of the woody resources will again speed up at the end of the period. Therefore the targets for modern cooking energy are set to restore the balance between sustainable woodfuels production and demand. In that case the use for LPG in the ECOWAS countries (except Nigeria) should grow from 12% by 2010 to 20% by 2030 and the use of kerosene in Nigeria from 22% by 2010 to 60% by 2030. The resulting aggregated targets are 17% by 2010, 36% by 2020 and 41% by 2030.

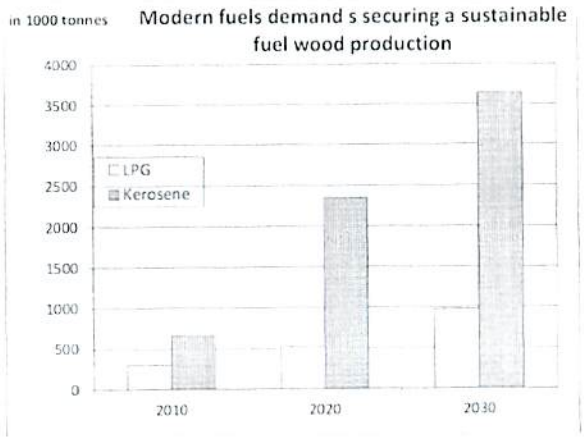


Figure 26: Resulting needs for modern cooking fuels

EREP Scenario for domestic energy

EREP scenario for domestic energy is to combine the three measures proposed. However, it must be noted that the second measure on improving yields of carbonization is part of a policy of natural resource management which is under the supervision of the Ministries in charge of environment and sustainable development, and that the third measure can only be sustainable if the shift from wood energy to modern energy occurs on a basis of non-subsidized prices. The combination of the three measures does lead to a return of the balance between supply and sustainable forest cover energy demand of the people.

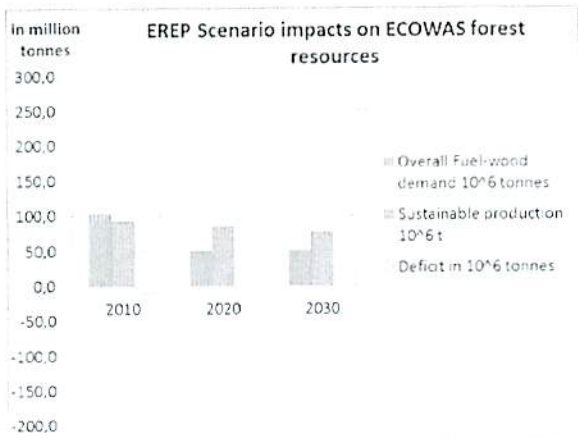


Figure 27: The ECREEE scenario for domestic energy

Annex V: Panel of tools according to the selected modus operandi

For grid connected applications

Several modus operandi can be considered:

1. A mandatory approach can be selected through the so-called **Renewable Portfolio Standard (RPS).** This is generally responsibility of the regulatory authority that is mandated to implement the policy. Based on the national policy and strategy for renewable energy, the national regulatory authority shall develop a Renewable Portfolio Standard to be submitted for the approval of the national governments, setting, according to the NREP, the renewable energy capacity to be added to the power production mix. The RPS would specify what percentage of the total power that utilities supply should be renewable energy over specified periods of time, either by generating themselves, or by buying the power produced by IPPs. These IPPs would have been invited through a tendering procedure or they would have decided to invest in renewable energy power generation according the propitious market conditions offered. As alternative, the utilities can avoid this investment by paying compensation to a national renewable energy fund to support other renewable energy activities. (as is the case of Ghana).
2. Monopoly utilities would have to compulsorily buy all the Renewable Energy produced. The major issue here would be the ability of utilities to pay as the power from renewable energy may be higher.
3. The Member States can select a more consensual approach through **tendering the required capacity as IPP** after an agreement between the Member States government and its utility or TSO that can be sealed through the recurrent rolling programme agreement signed between the Government and its utility.
4. A third opportunity is an open procedure that will fix the feed-in tariff and provide the legal and regulatory framework for renewable energy production business as well as launch an open tendering for investors attracted by this opportunity. The decision will be on the investor side. When the conditions are too restrictive, few investors or none will respond. If the conditions are favourable, many and possibly *too* many will be interest*ed* by this open offer.

Concerning grid connected renewable energy production, main tools include:

- **Feed-in tariffs:** To ensure a stable pricing policy, ECOWAS Member States shall introduce feed-in tariffs for small hydro schemes not exceeding 30MW, all biomass cogeneration power plants, solar and wind-based power plants, irrespective of their sizes. Specific tariff regimes formulated by National Regulatory Authorities based on a common guideline developed by the Regional Electricity Regulatory Authority (ERERA), shall, in the long term, be guaranteed to buyers under standard contract and provide reasonable rate of return.
- **Norms for determining feed in tariff for different renewable energy technologies:** These would ensure a reasonable return to investors, but designed not to provide undue profits. Therefore, they would also include frequency or rationale for revision. Sometimes they should decline as in case of solar PV. In other cases, like biomass, there could be an escalation factor for the fuel component. For hydro, there may be differential tariffs for the

initial debt period, declining subsequently. Based on these norms, regulatory authorities would declare feed in tariffs.

- **Development of a Standard for Power Purchase Agreements (PPA).** The PPA sets the terms for the technical and commercial delivery of the energy produced by an IPP. It shall determine the delivery location, power characteristics, price, quality, schedule, and terms of agreement and penalties for breach of contract. It shall, among other things, ensure that prices provide an adequate return on investments for renewable energy; standardizes and simplifies contractual relationships; and protects investors, utilities and consumers.

  The WAPP Permanent Secretariat has already developed in cooperation with ERERA appropriate standard or model for PPAs for larger gas-based or hydro power IPPs. These standards and models should be revisited to ensure their applicability to renewable energies. A lighter model shall be developed for smaller IPPs. Standards and models have to be validated by the national utilities and the national regulatory authorities, which will have the duties of controlling and monitoring these contracts.

- **Tariff regulation.** The national regulatory authority shall specify the terms and conditions for the determination of tariffs, and, by doing so, it shall consider all tariff elements that are favourable or hindering the promotion of renewable sources in electricity production.

- **Tax exemption:** In order to reduce the impact of the capital cost on the consumer's final tariff, it is agreed that all equipment imported for renewable energy production purposes will be exempted of import taxes and duties.

- **Tax holidays:** In order to attract foreign investors, a 100% reduction on income taxes could be granted to the renewable energy production plant during the first five years, followed by a 50% reduction on the following five years. From years 11 to 15, a 25% reduction on income tax will remain.

- **License:** An IPP shall necessarily have a license to produce and inject this production on the grid. The license will determine the technical and financial conditions for energy delivery to the grid as well as the eventual connection fees or contribution to grid reinforcement. The TSO will determine the access point to the grid that has to be within a reasonable distance to the IPP planned installation.

- **Net-metering**: The NREP should open for net-metering or distributed renewable energy production on trial basis and as a pilot project to test and monitor the resilience of the LV distribution network to this type of application. Therefore, authorisations should be granted to private installations connected to the grid having an overall capacity less than 20 kVA. The utility will be committed to monitor the trial within 5 to 10 LV transformer distribution areas to assess the gain in term of reduced load on the transformer but also in terms of impact on the stability on the LV and MW systems. A Feed-in Tariff shall be granted to the renewable energy installation owners for the excess power injected on the grid.

<u>For off-grid applications</u>

- **Mini-grid concessions**

Small power renewable energy systems shall play a key role in supporting expansion of electrification in ECOWAS particularly due to the scattered and isolated nature of rural electricity demand, which makes mini-grids the least cost solution in many cases complying with the distributed nature of renewable energy resources. Private producers bring finance and management expertise which is needed for operation and maintenance of such systems.

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

FORTY THIRD ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

Abuja, 17 – 18 July, 2013

SUPPLEMENTARY ACT A/SA.4/07/13 AMENDING THE SUPPLEMENTARY ACT A/SA.2/12/08 ON THE ESTABLISHMENT, FUNCTIONS AND OPERATION OF THE REGIONAL COMPETITION AUTHORITY FOR ECOWAS

THE HIGH CONTRACTING PARTIES,

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

MINDFUL of Article 3 of the said Treaty that provides for the harmonization and coordination of National Policies in the area of trade as a means of maintaining and enhancing economic stability within the sub region;

MINDFUL of Supplementary Act adopting the Community Competition Rules and the Modalities for its implementation within ECOWAS;

RECALLING the adoption of Supplementary Act A/SA.2/12/08 on the Establishment, Functions and Operation of the Regional Competition Authority for ECOWAS which is meant to guarantee optimum application of the Competition Rules;

HAVING IDENTIFIED differences in material provisions within the English and French versions of the Supplementary Act A/SA.2/12/08 establishing the Regional Competition Authority;

WISHING to ensure uniformity in the English and French versions of this Supplementary Act leaving no room for any disparity within the provisions of both versions;

DESIROUS therefore of amending the current Article 2 paragraphs 1, 2, and 3 of the French version of this Supplementary Act to align it in both meaning and content to Article 2 paragraphs 1, 2, 3, and 4 of the English version of the latter Act;

ON THE RECOMMENDATION of the Seventieth Ordinary Session of the Council of Ministers held in Abidjan, from 20th to 21st June 2013

AGREE AS FOLLOWS:

ARTICLE 1: **Amendment of Article 2 (1) (2) and (3) of the French Version of the Supplementary Act A/SA.2/08/12 on The Establishment, Functions and Operation of the Regional Competition Authority for ECOWAS Realigning it with the English version**

1. Article 2 paragraphs 1, 2 and 3 of the French version of the Supplementary Act A/SA.2/12/08 are hereby deleted and substituted by the following provision whilst the former Article 2 paragraph 4 in the English and French versions of the former Act are hereby renumbered as Article 2 paragraph 5.

New Article 2 Composition and Appointments

1. The Authority shall be headed by an Executive Director, assisted by two (2) Directors and staff necessary for its smooth functioning.

2. The Executive Director shall be a Statutory Appointee and shall be recruited and appointed by the Council of Ministers on the proposal of the Ministerial Committee on the selection and Evaluation of the Performance of Statutory Appointees, after evaluation of three (3) candidates who are nationals of the State to which the post has been allocated.

3. The Executive Director shall be recruited for a non-renewable period of four (4) years.

4. The Directors and other staff shall be recruited in accordance with the ECOWAS Staff Rules and Regulations on appointment.

5. Notwithstanding the provisions of paragraphs 1 and 2 of this article, and within a transitional period, the Executive Director and the two Directors shall be recruited on the basis of a contract for a period not exceeding eight (8) years maximum and shall be directly attached to the President of the Commission.

Article 2: Amendment and Revision

1) Any Member State, the Council of Ministers, the ECOWAS Parliament and the ECOWAS Commission may submit proposals for the amendment or revision of this Supplementary Act.

2) Proposals not emanating from the ECOWAS Commission shall be submitted to it. The Commission shall forward all proposals for amendment and revision to the Member States not later than thirty (30) days after their receipt. Upon expiration of the thirty (30) days notice given to Member States, the Authority of Heads of State and Government shall examine the proposals for amendment or revision of the Supplementary Act.

3) The amendments or revisions shall be adopted by the Authority of Heads of State and Government in accordance with the provisions of Article 9 of the ECOWAS Treaty. The adopted amendments and revisions shall enter into force upon their publication in the Official Journal of the Community

Article 3: Publication

The Supplementary Act shall be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published by each Member State in its National Gazette within thirty (30) days after notification by the Commission.

Article 4: **Entry into force**

1. This Supplementary Act shall enter into force upon its publication. Consequently, signatory Member States and the Intuitions of ECOWAS undertake to commence the implementation of its provisions on its entry into force.

2. This Supplementary Act is annexed to the ECOWAS Treaty of which it is an integral part.

Article 5: **Depository Authority**

This Supplementary Act shall be deposited with the Commission which shall transmit certified true copies thereof to all Member States and shall register it with the African Union, the United Nations and such other Organisations as Council may determine.

IN WITNESS WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES, HAVE APPENDED OUR SIGNATURES TO THIS SUPPLEMENTARY ACT

DONE AT ABUJA THIS 18TH DAY OF JULY 2013

IN A SINGLE ORIGINAL IN ENGLISH, FRENCH AND PORTUGUESE, ALL THREE (3) TEXTS BEING EQUALLY AUTHENTIC

H. E. Dr. Thomas Boni YAYI
President of the Republic of Benin

H. E. Blaise COMPAORE
President of Burkina Faso

H. E. José Maria PEREIRA NEVES
Prime Minister of Cape Verde

H. E. Alassane OUATTARA
President of the Republic of Côte d'Ivoire

H. E. Isatou NJIE SAIDY
Vice-President of The Gambia,
For and on behalf of the President
of the Republic

H. E. John Dramani MAHAMA
President of the Republic of Ghana

H. E. Prof. Alpha CONDE
President of the Republic of Guinea

H. E. Manual Serifo NHAMADJO
Interim President of the
Republic of Guinea Bissau

H. E. Ellen JOHNSON-SIRLEAF
President of the Republic of Liberia

H. E. Prof. Dioncounda TRAORE
Interim President of the
Republic of Mali

H. E. Mahamadou ISSOUFOU
President of the Republic of Niger

H. E. Dr. Goodluck Ebele JONATHAN, GCFR
President, Commander-in-Chief of the
Armed Forces of the Federal Republic of Nigeria

H. E. Mankeur NDIAYE
Minister of Foreign Affairs and Senegalese in Diaspora
For and on behalf of the President of the Republic

H. E. Ernest Bai KOROMA
President of the Republic of Sierra Leone

H. E. Elliott OHIN
Senior Minister of Foreign Affairs and Cooperation
For and on behalf of the President of the Togolese Republic

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

FORTY THIRD ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

Abuja, 17 – 18 July, 2013

SUPPLEMENTARY ACT A/SA.5/07/13 RELATING TO THE GENERAL CONVENTION ON SOCIAL SECURITY OF MEMBER STATES OF ECOWAS

THE HIGH CONTRACTING PARTIES;

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

MINDFUL of Article 3 of the said Treaty defining the aims and objectives of the Community;

MINDFUL of Chapter XI of the ECOWAS Treaty which contains provisions that underscore Member States obligations to co-operate in social , cultural and development issues and to harmonize and co-ordinate their policies and programmes in these areas;

RECALLING in particular Articles 60(2)(a) and 61(2)(b) under Chapter XI of the Treaty on co-operation in the area of employment and for the harmonisation of Labour and Social Security Legislations of Member States;

MINDFUL of Supplementary Act. A/SA.2/05/09 adopting a Labour and Employment Policy for ECOWAS;

CONSIDERING that the Member States undertake to cooperate with a view to mobilising the various sections of their populations to ensure their effective integration and contribution to the development of the region;

RECALLING the objectives of the International Labour Organization on Equal Treatment, (1962, (N° 118) and on the Preservation of Social security Rights, (1982 (N° 157), aimed at the effective realisation of equal treatment for migrant workers and the preservation of their social security rights;

RECALLING the Abuja Treaty and its Protocol on Free Movement of Persons, the Right of Residence and establishment;

RECALLING the African Union Migration Policy Framework for Africa (Banjul 2006), particularly its sections on migrant workforce and regional integration;

REALISING that greater benefit would be derived from the ECOWAS Free Movement Protocols if a General Convention on Social Security was adopted for the Community;

CONSIDERING therefore the need to coordinate the social security programmes of Member States of ECOWAS;

REALISING that the implementation of the Protocol on the Free Movement of Persons, Right of Residence and Establishment may be achieved through the adoption of a General Convention on Social Security;

DESIROUS of restructuring the Social security Systems of Member States;

ON THE PROPOSAL of the meeting of ECOWAS Ministers in charge of work, labour and social affairs, which held on 7 December 2012 in Dakar;

AFTER the opinion of the Community Parliament;

ON THE RECOMMENDATION of the Seventieth Session of the Council of Ministers that held on 20th and 21st June 2013 in Abidjan;

Hereby agree as follows:

TITLE 1: GENERAL PROVISIONS AND SCOPE OF APPLICATION

Article 1 Definitions

For the application of this Convention:

"Authority" means the Authority of Heads of State and Government of the Economic Community of West African States (ECOWAS) established under Article 7 of the ECOWAS Treaty of 1993 as amended;

"Council of Ministers" means the Council of Ministers of ECOWAS established under Article 9 of the Treaty of the ECOWAS;

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

"Convention" means this General Convention on Social Security for ECOWAS Member Sates established by this Supplementary Act;

"Contracting Party" means any Member State of the Economic Community of West African States which is signatory to this Convention and has deposited its instruments of ratification in keeping with the provisions of sub-paragraph 1 of Article 55, or any other State that has acceded to this Convention in keeping with Article 56;

"territory of a Contracting Party" means the national territory of each Contracting Party;

"national of a Contracting Party" means any person with the nationality of that Contracting Party;

"legislation" means any laws, regulations and statutory provisions in force at the time of signature of this Convention or which may subsequently enter into force in the territory of each Contracting Party, and which relate to the social security legislations set out in Article 2;

"competent authority" means the minister, ministers or the corresponding authority responsible for social security institutions in the territory of each Contracting Party;

"committee" means the Joint Committee of Social Security Experts referred to in Article 44;

"institution" means the authority or body responsible for enforcing all or part of the social security legislation of each Contracting Party;

"competent institution" means –

(i) where it relates to a social insurance either the institution to which the employee is affiliated at the time of claiming benefits, or the institution responsible for disbursing his benefits, or would be entitled to benefits if he resided in that territory of the Contracting Party where that institution is located, or the institution designated by the competent authority of the Contracting Party in question;

(ii) where it relates to a scheme concerning an employer's liability in respect of the benefits referred to in Article 2(1), either the employer or his insurer or, in default, the body or authority designated by the competent authority of the Contracting Party in question;

"provident fund" means a compulsory savings institutions A compulsory savings plan contributed to by both employee and employer to provide the employee with a lump sum based on previous contribution records on termination of employment.

"competent State" means the Contracting Party in whose territory the competent institution is situated;

"residence" means ordinary residence;

"temporary residence" means a temporary stay;

"institution of the place of residence" and "institution of the place of temporary residence" mean the institution empowered to
provide benefits at the place of residence and at the place of temporary residence, according to the legislation of the contacting party which this institution applies or, where such an institution does not exist, the institution designated by the competent authority of the Contracting Party concerned;

"employed person" means any person considered as a worker under the legislation of the Contracting Party concerned;

" migrant workers" means individuals who are going to undertake, are undertaking, or have undertaken any remunerated activity in any country other than their country of citizenship.

"refugee" has the meaning assigned to it in Article 1 of the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951, and in Article 1 paragraph 2, of the Protocol relating to the Status of Refugees of 31 January 1967, without geographical limitation, as the above instruments were supplemented by the Convention of the Organisation of African Unity governing the African aspect of the status of refugees, signed in Addis Ababa on 10 September 1969;

"stateless person" has the meaning assigned to it in Article 1 of the Convention relating to Status of Stateless Persons, signed in New York on 28 September 1954;

"members of the family" means persons defined or recognised as such by the legislation applied by the institution responsible for paying benefits;

"survivors" means persons defined or recognised as such by the legislation under which benefits are awarded;

"periods of insurance" means periods of contribution or insurance recognised as defined by the legislation under which they were completed, and such other periods as are recognized by that legislation as equivalent to periods of insurance;

"periods of employment" and "periods of professional activity" means the periods defined or recognised as such by the legislation under which they were completed, and such other periods regarded as equivalent to periods of employment or of professional activity;

"benefits" means all benefits in kind and in cash provided for in the situation under consideration as well as:

I) in the case of benefits in kind, those aimed at preventing any eventuality arising from security, functional re-adaptation and professional re-education :

II) In the case of cash benefits, all elements charged to public funds and other increases, benefit up-rating, or supplementary allowances, and other benefits that may be used to sustain or improve earning capacity, capital benefits that may be paid in lieu of pensions or allowances and, where necessary, payments made as refund of contributions.

"family benefits" means any benefits in kind or in cash, including family allowances, to offset family maintenance costs with the exception of pensions or benefit increases provided for the family members of the beneficiaries of these pensions or benefits;

"family allowances" means regular cash benefits granted according to the number and age of children;

"accident at work" is an accident which arises out of or in the course of work involving an employee or any person working in any capacity or in any location for one or more employers, with or without any fault on his part;

"commuting accident" is an accident occurring on the habitual route, in either direction, between the place of work and the worker's principal residence and vice versa, inasmuch as the journey has not been interrupted or the path diverted for a personal reason;

"occupational diseases" refers to diseases included in the table of occupational diseases and diseases recognised as such by the social security legislation in force and includes:

i. Morbid manifestations of acute or chronic intoxication of a worker regularly exposed to some toxic agents;

ii. Microbial or parasitic infections that may be contracted because of the work.

" of a non- contributory nature" applies to allowances, the grant of which neither depends on direct financial contribution of protected persons or their employer, nor on a professional course, as well as on regimes that grant such allowances exclusively.

"voluntary insurance" means the authority granted to the employee who ceases to fulfil the conditions of compulsory liability to the social security scheme so as to keep his membership and enjoy the services of the social security institution, provided that the employer and employee's contributions are paid as per the set deadlines.

"optional continued insurance" means the authority granted to a self-employed person and insured with a social security scheme to subscribe to a compulsory workers' social security scheme and maintain his previously acquired rights at the time of termination of a self-employed business activity.

"unemployment benefits" means benefits temporarily paid in the event of suspension of earnings due to impossibility for the insured employee to gain a new employment.

Article 2 : Material scope of application

1. This Convention shall apply to all legislations governing the branches of social security regarding:

a) Disability benefits
b) Old age benefits;
c) Survivors' benefits.
d) Occupational diseases and work-related accidents;
e) Family benefits;
f) Maternity benefits
g) Health care and Sickness benefits;
h) Unemployment Benefits

2. This Convention shall apply to the general and special compulsory regimes of a contributory nature of the Contracting Parties, including employers' contributions and provident fund schemes in respect of the benefits referred to in the preceding paragraph. Bilateral or multilateral agreements between two or more contracting parties shall determine, whenever practicable, the conditions under which the Convention shall be applied to the provident schemes or funds instituted by collective agreements rendered compulsory by governments.

3. This Convention shall also apply to all legislations that codify, supplement or amend the social security legislation in force on the date of ratification of this Convention in the territory of each Contracting Party.

4. The application of this Convention shall be extended to all social security schemes that shall be ultimately established under the legislation of each Contracting Party.

Article 3: Annex on the scope of this Convention

1. Annex I to this Convention specifies, in respect of each Contracting Party, the social security legislation and schemes referred to in Article 2.

2. Each contacting party shall give notice, in accordance with the provisions of Article 55 (1), of any amendment to be made to Annex I to this Convention as a result of the adoption of a new legislation. Such notice shall be given within three months of the date of publication of such legislation.

Article 4 : Persons covered

The provisions of this Convention shall be applicable to workers who are, or have been, subject to the legislation of one or more of the Contracting Parties and who are nationals of one of the Contracting Parties, or refugees or stateless persons who have acquired social security rights in the territory of a Contracting Party and are resident in the territory of a Contracting Party and are nationals of a Contracting Party, as well as members of their family and their survivors.

This Convention shall not apply to career diplomatic or consular staff including officials working in diplomatic circles.

Article 5: Social security Conventions replaced by this Convention

1. This Convention shall replace, in respect of persons to whom it is applicable, any social security Conventions concluded previously between the contracting parties.

2. Notwithstanding the provisions of the previous paragraph, two or more Contracting Parties may maintain in force any bilateral or multilateral convention on social security previously signed by the contracting parties, insofar as they are more advantageous than this Convention.

Article 6: Equal treatment

Persons who residing in the territory of a Contracting Party and to whom this Convention is applicable shall have the same rights and obligations under the legislation of every Contracting Party as the nationals of the latter party.

The provisions of paragraph 1 of this Article shall not adversely affect the provisions of the legislation of any Contracting Party regarding the interested parties' participation in the administration or competent jurisdictions on social security.

Article 7: Admission to voluntary insurance

Where the legislation of a Contracting Party makes the admission to voluntary insurance conditional upon the completion of periods of insurance, the institution applying that legislation shall, to that end and for the purpose of aggregating the period, take account of the periods of insurance completed under the legislation of any other Contracting Party, as if they were periods of insurance completed under the legislation of the first party.

Article 8: Removal of territorial restrictions, and impact on the reimbursement of contributions

1) Invalidity, old-age or survivors', maternity, sickness, unemployment cash benefits, pensions in respect of occupational accidents or diseases, and family benefits, payable under the legislation of one or more of the Contracting Parties shall not be liable to any reduction, modification, suspension, removal or forfeiture by reason of the fact that the employed person, his family members or his survivors are resident in the territory of a Contracting Party other than that in which the institution liable for payment is situated.

2) the Contracting Parties shall settle, through bilateral or multilateral agreements, the payments of the benefits referred to in the preceding paragraph which are due to persons admitted to benefit from the provisions of this Convention, when such persons reside in the territory of a State that is a non-Contracting Party.

3) Where the legislation of a Contracting Party makes the reimbursement of employee contributions conditional upon the person concerned having ceased to be subject to compulsory insurance, that condition shall not be regarded as fulfilled insofar as that employee is subject to compulsory insurance under the legislation of any other Contracting Party.

Article 9 Uprating of benefits

The rules for an upward review or increase in benefits envisaged in the legislation of a Contracting Party shall be applicable to benefits payable under such legislation to nationals of any Contracting Party in accordance with the provisions of this Convention.

Article 10 **Non-cumulation of benefits**

1) Only in the case of invalidity, old-age, survivors or occupational disease benefits that are paid by the institutions of two or more of the Contracting Parties in conformity with the provisions of Article 17 or Article 33(b) shall this Convention confer or maintain the right to several benefits of the same nature or to several benefits relating to the same period of compulsory insurance

2) Provisions in the legislation of a Contracting Party for the reduction, suspension or removal of benefits where there is undue plurality with other benefits or other income, or because the person otherwise entitled is in an occupational activity, shall apply also to a beneficiary even in respect of benefits acquired under the legislation of another Contracting Party or of income obtained or occupational activity undertaken in the territory of another Contracting Party. However, in applying this rule, no account shall be taken of benefits of the same nature awarded in respect of invalidity, old-age, survivors or occupational disease by the institutions of two or more Contracting Parties in accordance with the provisions of Article 17 or of Article 33(b).

TITLE II – PROVISIONS GOVERNING THE APPLICABLE LEGISLATION

Article 11 **General rules**

1) Employed persons shall be subject to the legislation of one Contracting Party only. That legislation shall be determined in accordance with the rules set out in the following paragraphs of this Article.

2) Workers employed in the territory of a Contracting Party shall be subject to the legislation of that party, even if they are resident in the territory of another Contracting Party or if the company or the employer that employs them has its headquarters, or resides, in the territory of another Contracting Party.

These provisions shall apply to members of the service staff of diplomatic missions or consular posts and to persons employed in the private service of officials of such missions or posts, without prejudice to the provisions of Article 4(2).

3) Staff of one of the Contracting Parties as well as persons treated as such shall be subject to the legislation of the administration of the Contracting Party that employs them.

4) Employed persons who ply their occupational activity on board a ship flying the flag of a Contracting Party shall be subject to the legislation of that party.

Article 12 Exceptions

1. The following exceptions or particularities shall apply to the rule laid down in Article 11(2):

(a)

(i) Persons employed in the territory of a Contracting Party by an undertaking which is their regular employer, who are sent by that undertaking to work for it in the territory of another Contracting Party, shall remain subject to the legislation of the country in whose territory the undertaking has its headquarters, insofar as the expected duration of the work does not exceed six months, and they are not sent to replace other employed persons that have ended the period of their secondment;

(ii) If the work to be carried out continues because of unforeseeable circumstances for a period longer than originally intended and exceeding six months, the legislation of the first party shall remain applicable until the work is completed, subject to the agreement of the competent institution of the second Party;

(b)

i) International transport workers working in the territory of two or more Contracting Parties as rail or flight personnel for an undertaking which carries out, on behalf of others or for his own account, transport services for passengers or goods by rail, road, air or inland waterway, shall be subject to the legislation of the Contracting Party in whose territory the undertaking has its headquarters;

ii) However, if they are employed by a branch or permanent representation which the said undertaking has in the territory of a Contracting Party other than the party in whose territory it has its headquarters, they shall be subject to the legislation of the Contracting Party in whose territory the branch or permanent representation is located.

iii) If they are employed mainly in the territory of the Contracting Party where they are resident, they shall be subject to the legislation of that party, even if the undertaking, which employs them, has neither its registered office nor a branch or permanent representation in that territory.

i) Salaried workers other than those in international transport who normally ply their occupation in the territory of two or more Contracting Parties shall be subject to the legislation of the Contracting Party in whose territory they reside if their occupation is carried out partly in that territory or if they are employed by several undertakings or by several employers having their registered offices or their places of residence in the territory of different Contracting Parties.

(ii) In the other cases, they shall be subject to the legislation of the Contracting Party in whose territory the undertaking that employs them has its registered office or is domiciled.; this legislation is applicable to them as if they carry on the territory of that Party.

(2). The rule dealt with in 11(4), shall comprise the following exceptions:

(i) Workers employed by an undertaking they normally work in, either on the territory of a Contracting Party or on board a sip flying the flag of a Contracting Party, which are detached by that undertaking to carry out work on its behalf on board a ship flying the flag of another Contracting Party, shall remain subject to the legislation of the fist Party subject to the conditions set out in subparagraph a) of this article;

(ii) Workers normally carrying out their activity in the territorial waters or in the port of a Contracting Party, on a ship flying the flag of another Contracting Party, without belonging to the crew of that ship, shall be subject to the legislation of the first Party;

(iii) Employees working on board a ship flying the flag of a Contracting Party, who are paid for the work by an undertaking or a person with headquarters of place of work on the territory of another Contracting Party, shall be submitted to the legislation of the last Party where they have their residence on the territory; the undertaking or the person who pays the remuneration shall be considered as the employer for the application of the said legislation.

(3). Where by virtue of paragraphs 1 and 2 of this Article, an employee is subject to the legislation of a Contracting Party on whose territory he does not engage in occupational activity, that legislation shall be applicable to him as if he plied an occupational activity in the territory of that party.

Article 13 Rules applicable to voluntary or optional continued insurance

1. The provisions of Articles 11 and 12 shall not apply to voluntary or continued voluntary or optional continued insurance. In that case, the employee shall maintain the freedom of becoming affiliated to a legislation of his choice.

2. Where the application of the legislations of two or more contracting parties would result in affiliation to a compulsory insurance scheme and at the same time, permit membership of one or more voluntary insurance schemes, the person concerned shall be admitted solely to the compulsory insurance scheme. However, in case of old age, incapacity and death, the provisions of the legislation of any Contracting Party enabling the cumulation of affiliation to continued voluntary or compulsory insurance shall not be infringed upon.

3. Where the application of the legislations of two or more Contracting Parties has the effect of permitting the admission to two or more continued voluntary or compulsory insurance schemes, the person may not be admitted to the continued voluntary or compulsory insurance scheme of the legislation of the Contracting Party to which it was last submitted.

Article 14 **Exceptions to Articles 11 to 13**

The competent authorities of the contracting parties may by mutual agreement make exceptions to the provisions of Article 11 and 13 in favour of the persons in question.

TITLE III. SPECIAL PROVISIONS GOVERNING THE VARIOUS CATEGORIES OF BENEFITS

CHAPTER 1. INVALIDITY, OLD-AGE AND SURVIVORS' BENEFIT

Section 1. Common Provisions

Article 15 **Principle of coordination**

Where an employed person has been subject successively or alternatively to the legislations of two or more Contracting Parties, the employee or his beneficiaries shall benefit from benefits in conformity with the provisions set out in this article.

Article 16 **Aggregation of periods of insurance**

Where the legislation of a Contracting Party makes the acquisition or maintenance of entitlement to benefits conditional upon the completion of periods of insurance, the institution that applies that legislation shall, to that end and for the purpose of aggregation, take account of the periods of insurance completed under the legislation of any other Contracting Party, as if they were periods completed under the legislation of the first party.

Article 17 **Time proportional allocation**

1. The institution of each Contracting Party to whose legislation the employee concerned has been subject, shall determine in accordance with the legislation it applies, whether the person concerned satisfies the conditions for entitlement to benefits, having regard, where appropriate, to the provisions of Article 16(1).

2. If the person concerned satisfies those conditions, the said institution shall calculate the theoretical amount of the benefit he could claim if all the periods of insurance completed under the legislation of the contracting parties concerned and taken into account in accordance with the provisions of Article 16(1) had been completed exclusively under the legislation it applies.

3. However, in the case of benefits, the amount of which does not depend on the duration of the periods of insurance completed, that amount shall be considered the theoretical amount referred to in the preceding paragraph.

4. The said institution shall subsequently fix the actual amount of the benefit payable by it to the person concerned, on the basis of the theoretical amount calculated in accordance with the provisions of paragraph 2(3) of this Article, as appropriate, in proportion to the duration of the periods of insurance completed before the eventuality arose, under the legislation which it applies, to the total of the periods of insurance competed before the eventuality arose under the legislation of all the contracting parties concerned.

5. Where the legislation of a Contracting Party provides that the amount of benefit or certain parts thereof shall be proportional to the periods of insurance completed, or be calculated on the basis of retirement points, the competent institution of that party may calculate those benefits or parts thereof directly, solely on the basis of the periods completed under the legislation it applies, notwithstanding the provisions of paragraphs (2) and (4) of this Article.

<u>Article 18</u> Basis for the calculation of benefits, and consideration of family members

(1). For the calculation of the theoretical amount referred to in Article 17, paragraph 2 of this Convention, the following provisions shall apply:

(a) where the legislation of a Contracting Party provides that benefits shall be calculated on the basis of average earnings, or on the ratio between the gross earning of the person in question and the average of the gross earning of all the insured during the periods of insurance; such average earnings shall be determined by the competent institution of that party, or of the gross earning paid to the person in question solely during those periods;

(b) where the legislation of a Contracting Party provides that benefits shall be calculated on the basis of the amount of earnings or contributions, the earnings or contributions to be taken into account by the competent institution of that party, in respect of periods completed under the legislation of other contracting parties, shall be determined on the basis of the average earnings or contributions relating to the periods completed under the legislation of the first-mentioned party.

(c) Where the legislation of a Contracting Party provides that the benefits shall be calculated on fixed earnings or a fixed amount, the earnings or the amount to be taken into consideration by the competent institution of that party in respect of periods completed under the legislation of other contracting parties, shall be equal to the fixed earnings or fixed amount corresponding to the periods competed under the legislation of the first party;

(d) If the legislation of a Contracting Party is not the last legislation to which the employed person has been subject and where, according to that legislation, the earnings to be taken into account shall be those received during a specified period prior to the date on which the pension becomes payable.

(i) the date on which the employee ceased to be subject to that legislation shall be considered for this purpose to be the date on which the pension becomes payable;

(ii) the earnings shall be adjusted according to the percentages and on the basis of the deadlines fixed by the said legislation for the adjustment of the minimum salary, where that legislation does not provide for the re-adjustment of such earnings; However, only the previous earnings at the beginning of a period equal to that used in calculating the average earnings shall be adjusted, but completed as from the date of pension admissibility.

2. Where the legislation of a Contracting Party provides that the amount of benefits shall vary with the number of members of the family, the competent institution of that party shall also take account of the members of the family resident in the territory of another Contracting Party, as if they were resident in the territory of the first party.

Article 19 **Periods of less than one year insurance**

1. Notwithstanding the provisions of Article 17, where the total duration of the periods of insurance completed under the legislation of a Contracting Party is less than one year and where, taking only those periods into account, no entitlement to benefits exists under that legislation, the institution of the said party shall not be bound to grant benefits in respect of such periods.

2. The periods referred to in the preceding paragraph shall be taken into account by the institution of each of the other Contracting Parties concerned, for the purpose of the application of the provisions of Article 17, with the exception of those of paragraph 4 thereof.

3. However, where the application of paragraph 1 of this Article would have the effect of relieving all the institutions concerned of the obligation to award benefits, the benefits shall be awarded exclusively under the legislation of the last Contracting Party whose conditions are fulfilled by the person concerned, regard being had to the provisions of article 16, as if all the periods referred to in paragraph 1 of this Article had been completed under the legislation of that party.

Article 20 **benefits becoming payable successively**

1. If the person in question does not, at a given time, satisfy the conditions required by all the legislations of the Contracting Parties concerned, regard being had to the provisions of Article 16, but satisfies the conditions of the legislation of only one or more of them, the following provisions shall apply:

(a) The amount of the benefits payable shall be calculated in accordance with the provisions of Article 17(2) to (5) as the case may be, by each of the competent institutions applying a legislation whose conditions are fulfilled;

(b) However

(i) If the person in question satisfies the conditions of at least two legislations without any need to include periods of insurance competed under the legislations whose conditions are not fulfilled, such periods shall not be taken into account for the purpose of applying the provisions of Article 17(2) to (4);

(ii) If the person in question satisfies the conditions of one legislation only, without any need to invoke the provisions of Article 16, the amount of the benefits payable shall be calculated solely in accordance with the provisions of the legislation whose conditions are fulfilled, taking account of periods completed under that legislation.

2. Benefits awarded under one or more of the legislation concerned in the case referred to in the preceding paragraph shall be recalculated ex officio, in accordance with the provisions of Article 17(2) to (5) as the case may be, as and when the conditions prescribed by one or more of the other legislations are fulfilled, regard being had, where appropriate, to the provisions of Article 16.

Article 21 proportional supplement

1. Where the amount of the benefits a person would be entitled to claim under the legislation of a Contracting Party, disregarding the provisions of Articles 16 to 20, is greater than the total benefits payable in accordance with those provisions, the competent institution of that party shall pay a supplement equal to the difference between the two amounts, and shall bear the total cost thereof.

2. Where the application of the provisions of the preceding paragraph would have the effect of entitling the person concerned to supplements from the institutions of two or more contracting parties, he shall receive exclusively the largest complement, and the cost of that complement shall be apportioned among the competent institutions of the contracting parties, concerned according to the ratio between the amount of the supplement which each of them would have to pay if it alone had been concerned and the amount of the combined supplement which all those institutions would have had to pay.

3. The supplement referred to in the preceding paragraphs of this Article shall be regarded as a component of the benefits provided by the institution liable for payment. Its amount shall be determined once and for all, except where it may be necessary to apply the provisions of Article 20(2),

Section 2. – Special provisions on invalidity benefits

Article 22 Recognition of decisions concerning the degrees of invalidity

Decisions recognizing the degree of invalidity of the claimant taken by the institution of a Contracting Party shall be binding on the institution of any other Contracting Party.

Article 23 aggravation of invalidity

1. In the event of an aggravation if any invalidity for which an employee is receiving benefit under the legislation of one Contracting Party only, the following provisions shall apply:

(a) if the person concerned has not been subject to the legislation of another party since he began to receive benefit, the competent institution of the party shall be bound to take the aggravation into account when awarding benefit, in accordance with the provisions of the legislation which it applies;

(b) if the person concerned has become subject to the legislation of one or more other contracting parties since he began to receive benefit, the aggravation shall be taken into account when awarding benefit in accordance with the provisions of Article 16 to 21;

(c) in the case referred to in the preceding subparagraph, the date on which the aggravation was demonstrated shall be regarded as the date on which the contingency arose;

(d) if, in the case referred to in subparagraph (b) of this paragraph, the person concerned is not entitled to benefit from the institution of the first party, the competent shall, considering the aggravation, be bound to awarding the benefits in accordance with the provisions of the legislation which it applies.

2. In the event of aggravation of any invalidity for which an employed person is receiving benefit under the legislation of two or more contracting parties, the aggravation shall be taken into account, when awarding benefit, in accordance with the provisions of Article 16 to 21. The provision of subparagraph © of the preceding paragraph shall apply mutatis mutandis.

Article 24 resumed payment of benefit after suspension or suppression

1. Where, after the suspension of benefits, payment thereof is to be resumed, this shall be done by the institution or institutions which were liable for payment of the benefits at the time of their suspension, without prejudice to the provisions of Article 25.

2. Where, after the suppression of benefits, the state of health of the person concerned justifies the award of further benefits, such benefits shall be awarded in accordance with the provisions of Article 16 to 21.

Article 25 conversion of invalidity benefit into old-age benefit

1. Invalidity benefit shall, where appropriate, be converted into old-age benefit, on conditions prescribed by the legislation under which they have been awarded and in accordance with the provisions of Articles 16 to 21.

2. Where, in the case referred to in Article 20, a recipient of invalidity benefit payable under the legislation of one or more contracting parties becomes entitled to old-age benefit as provided for under article 20,, any institution liable for the payment of invalidity benefit shall continue to pay the recipient the benefit to which he is entitled under the legislation which it applies until such time as the provisions of the preceding paragraph become applicable in respect of that institution.

CHAPTER II. BENEFITS IN RESPECT OF OCCUPATION INJURIES AND DISEASES

Article 26 Derogations from the principle of territoriality

An occupational accident on the territory of a Contracting Party other than the competent State shall be regarded as having occurred in the territory of the competent State.

An accident that occurs on the way to work on the territory of a Contracting Party other than the competent shall be regarded as having occurred on the territory of the competent authority.

1. Employees residing on the territory of a Contracting Party other than the competent state, who are victims of a work accident or professional illness, shall benefit on that territory:

a. from benefits in kind at the expense of the competent institution by the institution at the place of residence, according to the provisions of the legislation being applied by the latter institution, as if they were affiliated thereto ;

b. from benefits in cash at the expense of competent institution in accordance with the provisions of the legislation it applies, as if they reside on the territory of the competent State. However, after agreement between the competent institution and the institution of the place of residence, the benefits in cash may equally be awarded through the intermediary of the latter institution on behalf of the competent institution.

2. Where the employees referred to under this article reside on the territory of the competent state, they shall be accorded the benefits in accordance with the provisions of that state's legislation as if they reside on its territory, even if they were accorded the benefits before the beginning of their stay.

3. Where the employees referred to in this article transfer their residence to the territory of the competent state, they shall be accorded the benefits in accordance with the legislation of that state even if they were accorded the benefits before the transfer of their residence, subject to the prior agreement of the competent institution.

<u>Article 27</u> provision of short-term benefits in the case of residence or stay outside the territory of the competent State

1. Victims of an occupational accident or of an occupational disease

(a) who is resident in the territory of a Contracting Party other than the competent State or

(b) who, having become entitled to benefits payable by the competent institution, is authorised by that institution to return to the territory of a Contracting Party other than the competent State where he is resident, or to transfer his residence to the territory of a Contracting Party other than the competent State or

(c) who is authorised by the competent institution to go to the territory of a Contracting Party other than the competent state in order to receive the treatment required by his condition, shall receive:

(i) benefits in kind provided at the expense of the competent institution by the institution of the place of residence or temporary residence, in accordance with the provisions of the legislation applied by the latter institution, as if he were affiliated to it;

(ii) cash benefits, paid by the competent institution, in accordance with the provisions of the legislation which it applies, as if he were in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence or temporary residence, cash benefits may be paid through the latter institution on behalf of the competent institution.

2. (a) The authorisation referred to in subparagraph (c) of the preceding paragraph may be refused only if the move might prejudice the health or the course of medical treatment of the person concerned.

(b) The authorisation referred to in subparagraph (b of the preceding paragraph shall not be refused when the requisite treatment cannot be given in the territory of the Contracting Party in which the person concerned resides.

Article 28 **Prior authorisation for the supply of major benefits in kind**

In the cases referred to in paragraph 1 of Article 27, the competent authorities of the contracting parties may agree to make the supply of prosthetic appliances, major aids and other major benefits in kind by the institution of the place of residence or temporary residence conditional upon the prior authorisation of the competent institution.

Article 29 **Cost of transport of the injured person or his body**

1. Where the legislation of the competent State provides for the payment of the cost of transporting the injured person to his place of residence or to hospital, the cost of transport to the corresponding place in the territory of another Contracting Party where he is resident shall be borne by the competent institution, in accordance with the provisions of the legislation which it applies, provided that it has given prior authorisation for the said transport, due account being taken of the reasons justifying it.

2. Where the legislation of the competent State provides for the payment of the cost of transporting the body of a deceased injured person to the place of burial, the cost of transport to the corresponding place in the territory of another Contracting Party where the deceased was resident shall be borne by the competent institution, in accordance with the provisions of the legislation which it applies.

Article 30 **Assessment of incapacity in the event of successive injury**

Where the legislation of a Contracting Party provides that previous occupational injuries or diseases shall be taken into consideration in order to assess the degree of incapacity, the competent institution of that Contracting Party shall also take into consideration, to this end, the occupational injuries and diseases which have previously been recognised as such under the legislation of any other Contracting Party, as if they had occurred under the legislation which it applies.

Article 31 **Calculation of cash benefits**

1. Where the legislation of a Contracting Party provides that the calculation of cash benefits shall be based on average earnings, the competent institution of that party shall determine those average earnings exclusively on the basis of the earnings recorded during the periods completed under the said legislation.

2. Where the legislation of a Contracting Party provides that the amount of cash benefits shall vary with the number of members of the family, the competent institution of that party shall take account also of members of the family resident in the territory of another Contracting Party, as if they were resident in the territory of the first party.

Article 32 Exposure to the risk of occupational disease under the legislation of several contracting parties

1. If an employed person contracts an occupational disease after having been engaged in an occupation likely to cause that disease under the legislation of two or more contracting parties, the benefit for which he or his survivors may be entitled shall be awarded exclusively under the legislation of the last of the said parties, the conditions of which they fulfil, regard being had, where applicable, to the provisions of paragraph 2, 3 and 4 of this Article.

2. Where the legislation of a Contracting Party makes the right to benefit for occupational diseases conditional upon the disease in question being diagnosed within a specified period after the termination of the last occupation liable to cause such a disease, the competent institution of that party, when ascertaining the time at which the occupation in question was engaged in shall, to the extent necessary, take account of any occupation of the same kind engaged in under the legislation of any other Contracting Party, as if it had been engaged in under the legislation of the first party.

3. Where the legislation of a Contracting Party makes entitlement to benefit for occupational diseases conditional upon an occupation liable to cause the disease in question having been pursued for a specific period, the competent institution of that party shall, to the extent necessary, take account, for the purpose of adding periods together, of periods during which such an occupation was followed in the territory of any other Contracting Party.

4. Where the legislation of a Contracting Party makes the right to benefit for occupational diseases conditional upon the disease in question being first diagnosed in its territory, that condition shall be deemed to have been fulfilled it this disease was first diagnosed in the territory of another Contracting Party.

Article 33 **Aggravation of an occupational disease for which benefit has been awarded**

Where an employed person, having contracted an occupational disease has received or is receiving compensation from the institution of a Contracting Party and in the event of an aggravation of his condition claims benefit from the institution of another Contracting Party, the following provisions shall apply:

1. where the employed person has not engaged, under the legislation of the second party, in an occupation liable to cause or aggravate the disease in question, the competent institution of the first party shall bear the cost of the benefits, taking the aggravation into account in accordance with the provisions of the legislation which that institution applies;

2. Where the employed person has engaged in such an occupation under the legislation of the second party, the competent institution of the first party shall bear the cost of the benefit, leaving the aggravation out of account, in accordance with the provisions of the legislation which it applies; the competent institution of the second party shall award to the person concerned a supplementary benefit, the amount of which shall be equal to the difference between the amount of the benefit due after the aggravation and the amount of the benefit that would, in accordance with the provisions of the legislation which that institution applies, have been due before the aggravation if the disease in question had been contracted under the legislation of that party.

Article 34: **Refunds between institutions**

1. The competent institution shall be bound to refund the cost of benefits in kind provided on its behalf by the institution of the place of residence or temporary residence by virtue of the provisions of Article 27, paragraph 1.

2. The refund referred to in the preceding section shall be made by the competent institution, at rates to be determined on the basis of the tariffs in force in the territory of the Contracting Party where the institution of the place of residence or temporary residence is situated.

3. The contracting parties may agree that there shall be no refunds between the institutions in their jurisdiction.

CHAPTER III. FAMILY AND MATERNITY BENEFITS

Article 35 taking account of periods of insurance or employment for the acquisition of benefit entitlement

Where the legislation of a Contracting Party makes the acquisition of entitlement to family and maternity benefits conditional upon the completion of periods of insurance or employment, the institution which applies that legislation shall, to that end, for the purpose of adding periods together, take account of periods of insurance or employment completed under the legislation of any other Contracting Party, as if they were periods completed under the legislation of the first party.

Article 36 provision of maternity benefit in the case of residence or temporary residence outside the competent State

Employed women who are resident or temporarily resident in the territory of a Contracting Party other than the competent state shall receive daily maternity benefits in the territory of that party. These benefits shall be paid by the competent institution in accordance with the legislation which it applies, as if the persons concerned were resident or temporarily resident in the territory of the competent State. However, by agreement between the competent institution and the institution of the place of residence, the benefits may be paid through the latter institution on behalf of the competent institution; in this case, the mother of the child shall receive the medical services provide under the legislation of the Contracting Party in the territory of which the persons concerned are resident.

Article 37 provision of family benefits in respect of members of the family who are resident outside the competent State

1. Employed persons who are subject to the legislation of a Contracting Party shall receive, in respect of the members of their family who are resident in the territory of another Contracting Party, the family benefits provided under the legislation of the first party, as if these members of the family were resident in the territory of that party.

2. Where the legislation of a Contracting Party provides that entitlement to family benefits shall be maintained for persons receiving a pension, for retired persons and for the surviving spouses or for unemployed persons, the provisions of the preceding paragraph shall apply mutatis mutandis.

3. Where an employed person satisfies the condition for entitlement to benefit prescribed by the legislation of the competent State, regard being had, where appropriate, to the provisions of 'article 35, the members of his family who are resident in the territory of a Contracting Party other than the competent State shall receive the health and welfare services provided by the institution of the place of residence, in accordance with the provisions of the legislation which it applies, as if the employed person were affiliated to that institution.

CHAPTER IV: HEALTHCARE AND SICKNESS BENEFITS

Article 38 : Derogation from the principle of territoriality

Persons satisfying the conditions required by the legislation of the competent State to be entitled to sickness benefits considering, if need be, the provisions of Article 16, and

(a) whose condition immediately requires benefits during their stay on the territory of a Contracting Party other than the competent State or ;

(b) who, after admission to benefits payable by the competent institution, shall be authorized by that institution to return to the territory of a Contracting Party other than the competent State where they reside, or to transfer their residence to the territory of a Contracting Party other than the competent State, or

(c) who are authorized by the competent authority to move to the territory of a Contracting Party other than the competent State, to be given the appropriate care for their condition,

Shall benefit:

- from benefits in kind, services to be borne by the competent authority by the competent institution of the place of temporary residence or residence, in accordance with the provisions of the legislation the latter applies, as if those persons were affiliated there; within the limit of the fixed period, if need be, by the legislation of the competent State,

- from benefits in cash borne by the competent institution in accordance with the provisions of the legislation applied by the latter, as if those persons were on the territory of the competent State.

However, after agreement between the competent institution and the institution of the place of stay or residence, the benefits in cash may equally be paid by the intermediary of that last institution on behalf of the competent institution.

Article 39 : Prior authorization

The authorization referred to in Article 38(b) may be rejected only where the movement of the person concerned health is such as would comprise his state of health or the delivery of medical treatment.
The authorization referred to in Article 38(c) may not be rejected when the care in question may not be dispensed to the person in question in the territory of the Contracting Party where he resides.

Article 40 : Cover for family members

The provisions of Articles 38 and 39 shall be applicable by analogy to the family members with regard to the enjoyment of benefits in kind.

CHAPTER V

UNEMPLOYMENT INSURANCE BENEFITS

Article 41 Provisions relating to the granting of unemployment benefits

Unemployed persons who meet the conditions required by the legislation of a Contracting Party in order to qualify for unemployment benefits after completing their insurance periods and who transfer their residence to the territory of a Contracting Party, shall also be expected to satisfy de facto the conditions prescribed by the legislation of the second party to qualify for the benefits, provided they apply to the institution of their new place of residence within thirty days of their transfer of residence.
The benefits shall be provided by the institution of the place of residence in accordance with the provisions of the legislation which this institution administers at the expense of the competent institution of the first party.

TITLE IV. PROVISIONS CONCERNING THE MAINTENANCE OF RIGHTS BETWEEN PROVIDENT FUNDS INSTITUTIONS AND PROVIDENT FUNDS

Article 42 successive affiliation to a provident fund and to another provident fund or a pensions institution

1. Where an employed person ceases to be subject to the legislation of a Contracting Party under which he has been registered with a provident fund, before the occurrence of a contingency entitling him to obtain the payment of the amount credited to his account, he may, upon request, either withdraw the total amount payable or have it transferred to the institution to which he is affiliated in the territory of the Contracting Party to whose legislation he has now become subject.

2. If the institution is itself a provident fund, the amount transferred shall be credited to the account opened by this institution in the name of the person concerned.

3. If the institution referred to in paragraph 1 of this Article is competent in respect of persons, the amount transferred shall be paid to the institution concerned in order to enable the person concerned to buy back periods for the purpose of acquiring or improving his rights to benefits under the legislation applied by this institution. The method of buying back periods shall be determined according to appropriate actuarial criteria either in accordance with the provisions of that legislation or by mutual agreement between the contracting parties concerned.

Article 43 Case of successive affiliation to a pension institution and to a provident fund

Where an employed person ceases to be subject to the legislation of a Contracting Party under which he had been affiliated to a pension scheme in order to move to the territory of another Contracting Party under whose legislation he is registered with a provident fund, before having acquired the right to a pension under the legislation of the first party, the pension rights in course of acquisition of this employed person for himself and his survivors shall be maintained until the conditions required for the receipt of the pension are satisfied. Failing this, the amount of the contributions paid by this employed person or on his behalf shall be transferred to the provident fund under conditions fixed by mutual agreement between the parties concerned.

TITLE V. COMMITTEE OF EXPERTS ON SOCIAL SECURITY

Article 44 Composition of the Committee

1. A Committee of Experts on Social security shall be set up by the ECOWAS Commission

2. The Committee shall comprise two representatives of each Contracting Party, including the National Director responsible for Social Security and a representative of institutions that operate national compulsory social security schemes. Where there are several national institutions responsible for the management of c compulsory contributory social security schemes, the ECOWAS Commission shall invite the heads of these institutions to meetings of the Committee of Experts.

3. The Committee shall receive technical assistance from the International Labour Office and from any other technical partner.

Article 45 Tasks of the Committee

1. The Committee shall handle all administrative matters and questions of interpretation arising from the provisions of this Convention and from the Administrative arrangement referred to in Article 63, without prejudice to the right of the authorities, institutions and the persons concerned to have recourse to the procedures and tribunals provided for by the legislation of the Contracting Party.

2. Models of certificates, statements, declarations, claims and other documents required for the application of the Convention and the Arrangement referred to in Article 63 shall be prepared by the Committee.

3. The Committee, at the request of the competent authorities of any Contracting Party, shall assemble information on the provisions of the legislations to which this Convention applies.

4. The Committee shall prepare leaflets for the purpose of informing the persons concerned of their rights and of the administrative formalities with which they must comply in order to secure them.

5. The Committee shall foster and develop cooperation between the contracting parties in the field of social security in the interest of migrants and the members of their family.

6. The Committee shall put forward proposals for the review of this Convention and of the administrative arrangement referred to in Article 63.

TITLE VI. MISCELLANEOUS PROVISIONS

Article 46 Mutual administrative assistance

1. The competent authorities of the contracting parties shall communicate to each other:

(a) all information regarding measures taken by them for the application of this Convention;

(b) all information regarding their legislations and subsequent changes in those legislations;

(c) all statistical information regarding the beneficiaries and the amount of benefit provided under this Convention.

2. For the purpose of applying this Convention, the authorities and institutions of the Contracting Parties shall assist one another as if it were a matter of applying their own legislation. In principle, the administrative assistance provided by the said authorities and institutions to one another shall be free of charge. However, the competent authorities of the contracting parties may agree to reimburse certain expenses.

3. For the purpose of applying this Convention the authorities and institutions of the contracting parties may communicate directly with one another and with the beneficiaries concerned or their representatives.

Article 47 Tax exemption or tax reduction

Any exemption from, or reduction of, taxes, stamp duty, legal dues or registration fees provided for in the legislation of one Contracting Party in connection with certificates or documents required to be produced for the purposes of the legislation of that party shall be extended to similar certificates and documents to be produced for the purposes of the legislation of another Contracting Party or of this Convention.

Article 48 **Claims, declarations and appeals**

1. Where a claimant is resident in the territory of a Contracting Party other than the competent State, he may present his claim validity to the institution of his place of residence, which shall forward it to the institution or the institutions referred to in the claim.

2. Any claim, declaration or appeal that should have been submitted under the legislation of a Contracting Party within a specified time to an authority, institution or jurisdiction of that party shall be admissible if it is submitted within that time-limit to an authority, institution or jurisdiction of another Contracting Party; in such event the authority, institution or jurisdiction receiving the claim, declaration or appeal shall forward it to the authority, institution or jurisdiction of the first party, either directly or through the competent authorities of the contracting parties concerned. The date on which any claim, declaration or appeal was submitted to an authority, institution or jurisdiction of the second party shall be deemed to be the date of its submission to the competent authority, institution or jurisdiction.

Article 49 **Medical examination**

Medical examinations prescribed by the legislation of one Contracting Party may be carried out at the request of the institution which applies that legislation in the territory of another Contracting Party by the institution of the place of temporary residence or residence. In such event, they shall be deemed to have been carried out in the territory of the first party.

Article 50 **Financial transfers and payment currencies**

1. Where, under this Convention, the institution of a Contracting Party is liable to pay cash benefits to a beneficiary who is in the territory of another Contracting Party, its liability shall be expressed in the currency of the first party. That institution shall validly discharge its liability in the currency of the second party, using any appropriate method of payment.

2. Where, under this Convention, the institution of a Contracting Party is liable to pay sums in refund of benefits provided by the institution of another Contracting Party, its liability shall be expressed in the currency of the second party. The first institution may validly discharge its liability in that currency, unless the contracting parties concerned have agreed on other settlement arrangements.

3. Transfers of funds, which result from the application of this Convention, shall be made in accordance with the relevant agreements in force between the contracting parties concerned at the date of transfer. Failing such agreement the arrangements for making such transfers shall be agreed between the said parties.

Article 51 Recovery of contributions

1. The recovery of contributions and fines due to the institution of a Contracting Party may be affected in the territory of another Contracting Party in accordance with the administrative procedure, and subject to the guarantees and privileges applicable to the recovery of contributions and fines due to a corresponding institution of the latter party.

2. The application of the provisions of the preceding paragraph between the contracting parties shall be conditional upon the conclusion agreements between the said parties. Such agreements shall also deal with the legal procedure for the recovery of sums due to the competent institutions of the contracting parties.

Article 52 Recourse against third parties

1. Where a person is receiving benefits under the legislation of a Contracting Party in respect of an injury sustained in the territory of another Contracting Party, the rights of the institution liable to pay benefits against the third party liable to pay damages shall be regulated in the following manner:

(a) Where the paying institution under the legislation applicable to it, is substituted for the beneficiary in any rights which he may have against the third party, such substitution shall be recognised by every other Contracting Party;

(b) Where the said institution has a direct right against the third party, such right shall be recognised by every other Contracting Party.

2. The rules governing the liabilities of employers or their agents in the case of occupational injuries or accidents on the way to or from work that occur in the territory of the Contracting Party other than the competent State shall be determined according to the legislation the competent institution of the said State applies.

Article 53 Disputes between contracting parties

1. Any dispute arising between two or more contracting parties as to the interpretation or application of this convention shall first be subject to negotiations between the parties to the dispute.

2. Where the dispute cannot be resolved through negotiations, the parties to the dispute shall jointly, appoint an arbitration body composed of 3 signatory States. The decision of this arbitration body shall be binding on the parties to the dispute.

3. If one of the parties to the dispute considers that there is an issue likely to affect all the contracting parties, the parties to the dispute shall jointly, or in default, individually submit such issue to the Committee of Experts on social security which shall give its opinion on the matter to the appropriate authorities in the States signatory to this Convention.

Article 54 Annexes

1. The annexes referred to in Articles 3 (1) and 5(2), paragraph 2, as well as any subsequent amendments made to them shall be an integral part of this Convention.

2. Any amendment to the annexes referred to in the preceding paragraph shall be considered as adopted if, within the three months following the notification provided for in Article 60, no Contracting Party has notified its opposition to the Director-General of the International Labour Office.

TITLE VII. TRANSITIONAL AND FINAL PROVISIONS

Article 55 transitional provisions following the coming into force of the Convention

This Convention does not confer any right in respect of a period prior to its coming into force.

However,

1. All periods of insurance and employment completed under the legislation of a Contracting Party before the date on which this Convention enters into force shall be taken into account for the purpose of determining rights arising from this Convention. The same applies to any affiliation under the legislation of a contraction party.

2. Rights may arise under this Convention even in respect of a contingency which arose before its coming into force.

3. Any benefit which has not been awarded or which has been suspended on account of the nationality of the person concerned or his residence in the territory of any Contracting Party other than that in which the institution liable to provide the benefits is situated shall, at the request of the person concerned, be awarded or resumed as from the date on which this Convention enters into force, unless the right previously assessed has given rise to the payment of a lump sum.

4. Where the request referred to in the preceding paragraph is submitted within two years of the date on which this Convention enters into force, the rights arising in accordance with the provisions of the Convention shall be acquired as from that date, and those provisions of the legislation of any Contracting Party which concern the loss or rights or the extinction of rights by lapse of time shall not be raised against the person concerned.

5. Where the request referred to in paragraph 4 is submitted more than two years after the date on which this Convention enters into force, such rights as have not lapsed or have not been extinguished by lapse of time, shall be acquired only with reference to the date on which the request was submitted, unless more favourable provisions exist in the legislation of the Contracting Party concerned.

Article 56 **Entry into Force**

1. The Supplementary Act adopting the General Convention on Social Security for ECOWAS member States shall enter into force upon signature and publication. Consequently, signatory Member States shall embark on the implementation of the Convention once it enters into force.

2. This Supplementary Act shall be attached as an annex to the ECOWAS Treaty to which it shall be an integral part.

Article 57 **Accession**

1 After the entry into force of this Convention, the Authority may, by unanimous decision, invite any non-Community Member-State to accede to this Supplementary Act.

2 In respect of States acceding to it, the Supplementary Act shall enter into force for these States on the date of receipt of their Instruments of Accession by the President of the ECOWAS Commission.

Article 58 **Duration of validity and denunciation**

1. This Supplementary Act shall remain in force indefinitely

2. Any Contracting Party may, in so far as it is concerned, denounce this Supplementary Act after it is has been in force for five years by a notification addressed to the President of the Commission.

3. Such denunciation shall take effect six months after the date of receipt of the notification by the President of the Commission.

Article 59 **Transitional provisions in case of denunciation of the Convention**

1. In the event of denunciation of this Supplementary Act, all rights acquired under the provisions of the Convention shall be maintained.

2. Rights in the process of acquisition in respect of periods before the date on which the denunciation takes effect shall not lapse as a result of the denunciation; their subsequent continued recognition shall be determined by agreement or, failing such agreement, by the legislation, which the institution concerned, applies.

Article 60 **Depository Authority/ Notifications**

1. This Supplementary Act and all Instruments of Accession shall be deposited at the ECOWAS Commission. The notifications referred to in Articles 3(2) and 5(3) shall be addressed to the President of the Commission.

2. The President of the Commission shall, within two months, notify the contracting parties, the signatory state, the United Nations, the African Union and the Director-General of the International Labour Office as well as such other Organisation as may be decided by Council of:

a) the date of entry into force of this Supplementary Act Convention in accordance with the provisions of Article 56(1);

b) any notification of denunciation received in accordance with the provisions of Article 58(2)

c) any notification received by virtue of the provisions of paragraph 1 of this Article

Article 61 **Transmission of Certified Copy to the AU, UN and other International Organisations**

As soon as this Supplementary Act initially comes into force, the President of the Commission to the African Union Commission shall communicate a certified copy of the Convention, United Nations and any other International Organisation as may be designated by the Council of Ministers

Article 62 **Agreement between contracting parties**

1. Two or more Contracting Parties may, if need be, conclude with each other social security agreements based on the principles of this Convention.

2. Each Contracting Party shall, in consonance with the provisions of Article 56(1), give notice of any agreement it may conclude by virtue of the preceding paragraph, as well as any subsequent modification or denunciation of such convention. The notification shall be made within a period of three months beginning from the entry into force of the said convention or its modification, or of the effect of its denunciation.

3. The provisions of this Convention shall not jeopardize the obligations arising from any Convention whatsoever adopted by the International Labour Conference and ratified by the Contracting Parties.

Article 63 **Administrative arrangements**

1. The procedures for the application of this Convention shall be laid down in an Administrative Arrangement concluded between the Contracting Parties.

2. The Administrative Arrangement referred to in paragraph1 of this Article shall be adopted by a Regulation of the Council of Ministers which authority shall have power to amend the Administrative Arrangement when necessary.

Note: **APPENDIX LEGISLATIONS AND SCHEMES**

IN WITNESS WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES HAVE SIGNED THIS CONVENTION.

DONE AT ABUJA THIS 18TH DAY OF JULY 2013

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

Sua Excelência o Senhor Thomas Boni YAYI
Presidente da República do Benim

Sua Excelência o Senhor Blaise COMPAORE
Presidente do Burkina Faso

Sua Excelência o Senhor José Maria PEREIRA NEVES
Primeiro-ministro de Cabo Verde

Sua Excelência o Senhor Alassane OUATTARA
Presidente da República de Côte d'Ivoire

Sua Excelência a Senhora Isatou NJIE SAIDY
Vice-presidente da Gâmbia
Pelo e em nome do Presidente da República

Sua Excelência o Senhor John Dramani MAHAMA
Presidente da República do Gana

Sua Excelência o Senhor Prof. Alpha CONDE
Presidente da República de Guiné

Sua Excelência o Senhor Manuel Serifo NHAMADJO
Presidente Interino
República da Guiné-Bissau

Sua Excelência a Senhora Ellen JOHNSON-SIRLEAF
Presidente da República da Libéria

Sua Excelência o Senhor Prof. Dioncounda TRAORE
Presidente Interino da República do Mali

Sua Excelência o Senhor Mahamadou ISSOUFOU
Presidente da República do Níger

Sua Excelência o Senhor Goodluck Ebele JONATHAN GCFR
Presidente e Comandante em Chefe das
Formas Armadas da República Federal da Nigéria

Sua Excelência o Senhor Mankeur NDIAYE
Ministro dos Negócios Estrangeiros e dos Senegaleses da Diáspora
Pelo e em nome do Presidente da República

Sua Excelência o Senhor Ernest Bai KOROMA
Presidente da República de Serra Leoa

Sua Excelência o Senhor Elliott OHIN
Ministro de Estado, Ministro dos Negócios Estrangeiros e Cooperação
Pelo e em nome do Presidente da República Togolesa

ADMINISTRATIVE ARRANGEMENT

FOR

THE APPLICATION OF THE GENERAL CONVENTION

ON SOCIAL SECURITY

BY

MEMBER STATES OF THE ECONOMIC COMMUNITY

OF WEST AFRICAN STATES

TITLE I – GENERAL PROVISIONS

Article 1: Definitions

For the purpose of this Administrative Arrangement:

(a) the term "Convention" means the General Convention on Social Security of the Member States of the Economic Community of West African States (ECOWAS);

(b) the term "Arrangement" means the Administrative Arrangement for the application of the Convention;

(c) the term "investigating institution" means the institution of any contracting party before which apprised of an application for the payment of the benefits of the his beneficiaries;

(d) the term "main breadwinner" means the spouse who primarily provides food and care for the family members.

(e) The terms defined in Article 1 of the Convention have the meanings ascribed to them in this article.

Article 2: Communication with and between institutions

Any institution of a Contracting Party, and any person residing or staying in the territory of a Contracting Party, may directly contact the institution of another Contracting Party for the application of the convention of this Arrangement.

Article 3: Annexes

1. Annex 1 mentions the competent authority or authorities of each Contracting Party.

2. Annex 2 names the competent institutions of each Contracting Party.

3. Annex 3 mentions the institutions designated by the competent authorities by virtue of the provisions of Article 9(3) of this Arrangement

Article 4: Other arrangements between the Contracting Parties

Two or more Contracting Parties may mutually lay down special procedures for application not at variance with the provisions of this Arrangement.

Article 5: Provisions replaced by this Arrangement

This Arrangement replaces the administrative arrangements for the application of social security conventions replaced with the Convention.

TITLE II. - APPLICATION OF THE GENERAL PROVISIONS OF THE CONVENTION

Application of Article 10 of the Convention

Article 6: Non-cumulation of benefits

When the recipient of a benefit payable under the legislation of a Contracting Party is equally entitled to benefit under the legislation of another or many other Contracting Parties, the following rules shall apply:

(a) Where they are benefits other than disability, old age and survivor benefits paid in conformity with the provisions of Article 17 of the Convention:

(i) In case the application of the provisions of Article 10(2) of the Convention would entail the concomitant reduction of the benefits, the amount of the suspension or removal to be made under each of the legislations under which these benefits are due, shall be divided by the number of benefits subject to reduction to which the beneficiary is entitled.

(ii) In case the application of the provisions of Article 10(2) of the Convention would entail the suspension or concomitant removal of the benefits, the amount of the suspension or removal to be made by virtue of each of the legislations under which the benefits are due shall be divided by the number of benefits subject to the suspension or removal to which the beneficiary is entitled.

(b) Regarding disability, old age or survivors benefits paid in accordance with Article 17 of the Convention by the institution of a Contracting Party, that institution shall take into account benefits or income that can give rise to reduction, suspension or withdrawal of the benefit to which it is entitled, not for calculating the theoretical amount referred to in of Article 17(2) and (3) of the Convention, but exclusively for the reduction, suspension or discontinuance of the amount referred to in Article 17(5). However, these benefits or incomes shall only be counted as a fraction of their amount, determined in proportion to the duration of the periods completed in accordance with Article 17(4) of the Convention;

(c) For the enforcement of Article 10(2) of the Convention, the competent institutions concerned shall, upon request, exchange all relevant information;

(d) For the enforcement of Article 10(2) of the Convention, the prevailing exchange rate to be taken into consideration shall be the rate valid on the first day of the month in which the last payment operation or, where necessary, the effective exchange rate on the first day of the month of the new calculation of the pension or the pension or the annuity.

Enforcement of Article 11 of the Convention

Article 7: Aggregation of benefits

Where, over the same period, two or more persons are entitled to family benefits under the legislation of two or more Contracting Parties with respect to the same members of the family, the Contracting Party to whose legislation the family's main breadwinner is subject shall be deemed to be the only competent State.

Enforcement of Article 13 of the Convention

Article 8: Admission to voluntary insurance

In order to benefit from the provisions of Article 13 of the Convention, the person concerned shall present to the institution of the Contracting Party concerned a statement relating to the insurance periods completed under the legislation of any other Contracting Party. This statement shall be tendered on the request of the concerned person or the institutions in which the person accomplished the required period of time.

TITLE III. – IMPLEMENTATION OF THE PROVISIONS OF THE CONVENTION RELATING TO THE APPLICABLE LEGISLATION

Application of Article 12(1) of the Convention

Article 9: Formalities in the case of an employee detached abroad

1) In case of the secondment of an employee worker covered by Article 12(1)a, of the Convention, the institution designated by the competent authority of the Contracting Party whose legislation is applicable shall issue the worker on request, if the requisite conditions are met, a certificate of such detachment abroad stating that he is still subject to that legislation. The agreement for extension of such detachment abroad shall be requested by the employer.

2) Where, by virtue of Article 12(3) of the Convention, the legislation of a contracting party is applicable to an employee whose employer is resident outside the territory of the said party, the legislation to determine the liable institution shall be applied as if the worker were employed at his place of residence within the said territory.

TITLE IV. - AGGREGATION OF PERIODS OF INSURANCE

Application of Articles 7, 16 and 35 of the Convention

Article 10: Rules on period aggregation

(1) In the cases referred to in Article 7, Article 16 and Article 35 of the Convention, periods of insurance shall be added together in accordance with the following rules:

(a) to the periods of insurance completed under the legislation of the Contracting Party shall be added the periods of insurance completed under the legislation of any other contracting Party, inasmuch as it is necessary to resort to it to supplement the periods of insurance accomplished under the legislation of the first Contracting Party, for the acquisition, maintenance or recovery of entitlement to benefit, on condition that the periods do not overlap. In the case of invalidity, old age, or survivors' benefits to be paid by the institutions of two or more Contracting Parties in accordance with the provisions of Article 17 of the Convention, each of the institutions concerned shall separately add together all the periods of insurance completed by the person concerned under the legislation of all the Contracting Parties to which he has been subject;

(b) where a period of compulsory insurance completed in accordance with the legislation of one Contracting Party coincides with a period of voluntary insurance completed under the legislation of another Contracting Party, only the first shall be taken into account;

(c) where an actual period of insurance completed under the legislation of one Contracting Party coincides with a period likened to an actual period of insurance under the legislation of another Contracting Party, only the first shall be taken into account;

(d) any period likened to an actual period of insurance under the legislation of two or more Contracting Parties shall be taken into account only by the institution of that Contracting Party to whose legislation the insured person was last compulsorily subject prior to the said period; where the insured person has not been compulsorily subject to the legislation of one of those Parties prior to the said period, that period shall be taken into account by the institution of that Contracting Party to whose legislation he was first compulsorily subject after the period in question;

(e) where the time at which certain periods of insurance were completed under the legislation of a Contracting Party cannot be determined with precision,, it shall be presumed that the periods do not overlap with periods completed under the legislation of another Contracting Party, and shall be taken into account as may be necessary;

(f) where, according to the legislation of one Contracting Party, certain periods of insurance are taken into account only if they have been completed within a specified time, the institution which applies this legislation shall take into account only periods completed under the legislation of another Contracting Party as have been completed within the same specified time.

(2) Where the periods of insurance completed under the legislation of a contracting party are expressed in units which differ from those which used by another contracting party, the necessary conversion for purposes of aggregation shall be carried out under the following rules:

a) Where the insured is comes under the **6**-day week system:

i. one day shall be the equivalent of **6** hours and **40** minutes and vice versa;

ii. **6** days shall be the equivalent of one week, and vice versa;

iii. **26** days shall be the equivalent of one month and vice versa;

iv. **3** months or **13** weeks or **78** days shall be the equivalent of a quarter and vice versa;

v. for the conversion of weeks to months and vice versa, weeks and months shall be converted into days;

vi. the application of the above rules may yield a total of more that **312** days or 52 weeks or 12 months or 4 quarters for all periods completed within a calendar year.

b) Where the insured comes under the 5-day week system:

i. **one** day shall be the equivalent of 8 hours, and vice versa;

ii. **5** days shall be the equivalent of **one** week, and vice versa;

iii. **22** days shall be the equivalent of **one** month, and vice versa;

iv. **3** months or **13** weeks or **66** days shall be the equivalent of one quarter, and vice versa;

v. the application of the above rules may not have the effect of yielding a total of more than **264** days or **52** weeks or **12** months or **4** quarters for all periods completed within a calendar year.

(3) Where, by virtue of paragraph 1(b) of this Article, periods of voluntary insurance in respect of invalidity, old age or survivors' completed under the legislation of a Contracting Party are not taken into account when aggregating periods, the contributions relating to such periods shall be considered as being used to improve the benefits due under the said legislation. Where the legislation provides for complementary insurance, the said contributions shall be considered in calculating the benefits due under such insurance.

TITLE V. – APPLICATION OF SPECIAL PROVISIONS OF THE CONVENTION GOVERNING THE VARIOUS CATEGORIES OF BENEFITS

CHAPTER 1. INVALIDITY, OLD-AGE AND SURVIVORS BENEFIT

Application of Articles 15 to 25 of the Convention

Section 1. Submission and Examination of Benefit Claims

Article 11: Submission of claims

(1) In order to receive the old-age, invalidity and survivors' benefits provided for in Articles 17 to 21 of the Convention, the claimant shall submit a claim to the institution of his place of residence in the manner prescribed by the legislation that institution applies. If the claimant has not been subject to that legislation, the institution of the place of residence shall transmit the claim to the institution of the Contracting Party to whose legislation the claimant or the deceased person was last subject, indicating the date on which the claim was submitted. That date shall then be considered as the date of submission of the claim to the last-mentioned institution.

(2) If the claimant resides in the territory of a Contracting Party to whose legislation he or the deceased person has not been subject, he may submit his claim to the institution of the Contracting Party to whose legislation he or the deceased person was last subject.

Article 12: Forms and procedure for the submission of claims

The submission of the claims referred to in Article 32 of this Agreement shall be subject to the following rules:

(a) the claim shall be accompanied with the requisite supporting documents and shall be submitted on the forms prescribed:

(i) either by the legislation of the Contracting Party in whose territory the claimant resides, in the case referred to in Article 11 (1)1;

(ii) or by the legislation of the Contracting Party to which the applicant was last subject, in the case referred to in Article 11(2).

(b) the accuracy of the information provided by the claimant shall be substantiated by official documents attached to the claim, or corroborated by the authorities of the Contracting Party in whose territory he resides;

(c) the claimant shall indicate, as far as possible, either the old-age, invalidity or survivors insurance institution or institutions of each of the Contracting Parties to whose legislation the worker has been subject, or the employer or employers by whom he has been employed in the territory of any Contracting Party, and submit any certificates of employment that may be in his possession.

Article 13: Determination of the degree of invalidity

In determining the degree of invalidity, the institution of a Contracting Party shall take account of all the medical and administrative information assembled by the institutions of any other Contracting Party. However, each institution shall retain the right to have the claimant examined by a doctor of its choice at its own expense, except where the provisions of Article 22 of the Convention apply.

Article 14: Examination of claims

(1) Claims shall be examined by the institution to which they have been submitted or to which they have been transmitted, as the case may be, as provided for in Article 11 of this Agreement. This institution shall be known as the "the examining institution".

(2) The examining institution shall immediately advise all the institutions concerned so that the claims may be examined by them simultaneously and without delay.

Article 15: Form to be used for the examination of claims

(1) In examining claims, the examining institution shall use a form setting out the details and recapitulation of the periods of insurance completed by the employee under the legislation of all the Contracting Parties concerned.

(2) The transmission of this form to the institution of any other Contracting Party shall take the place of the transmission of supporting documents.

Article 16: Procedure to be followed by the examining institution

(1) The examining institution shall enter on the form referred to in Article 15(1) of this Arrangement, the periods of insurance competed under its own legislation, and shall return a copy of the form to the invalidity, old-age or survivors' insurance institution of each Contracting Party to whose legislation the worker has been subject, attaching any employment certificates produced by the claimant.

(2) If only one other institution is involved, that institution shall complete the form sent to it in accordance with the provisions of the preceding paragraph by indicating the insurance period completed under the legislation it applies. It shall then determine the entitlement under the legislation, having regard to the provisions of the Article 17 of the Convention, and shall state on the form the theoretical and the actual amounts of the benefit, calculated in accordance with the provisions of Article 17 (2), (3), (4) or (5), of the Convention as well as, where appropriate, the amount of any benefit that could be claimed, without applying the provisions of Articles 16 to 20 of the Convention, solely for the periods completed under the legislation it applies. The form, which should also contain information concerning the appeals procedure including time limits, shall then be returned to the examining institution.

(3) If there are two or more other institutions involved, each institution shall complete the form submitted to it in accordance with the provisions of paragraph 1 of this Article, indicating the periods of insurance or residence completed under the legislation it applies, and return the form to the examining institution. That institution shall send the completed form to the other institutions involved, each of which shall determine entitlement under the legislation it applies in accordance with the provisions of Article 16 of the Convention and indicate on the form the theoretical and actual amounts of any benefit calculated in accordance with the provision of Article 17(2), (3), (4) or (5), of the Convention as well as, where appropriate, the amount of any benefit which could be claimed, without applying the provisions of Articles 16 to 20 of the Convention, solely for the periods completed under the legislation it applies. The form, which should also contain information concerning appeals procedure, including time-limits, shall then be returned to the examining institution.

(4) When the examining institution has received all the information referred to in paragraphs 2 or 3 of this Article, it shall determine the entitlement under the legislation it applies, having regard to the provisions of Article 16 of the Convention, and shall calculate the theoretical and actual amounts of the benefit, in accordance with the provisions of Article 17 (2), (3), (4) or (5) of the Convention as well as, where appropriate, the amount of any benefit which could be claimed without applying the provisions of Articles 17 to 20 of the Convention, solely for the periods completed under the legislation it applies.

(5) Should the examining institution, upon receiving the information referred to in paragraphs 2 or 3 of this Article, find it is necessary to apply the provisions of Article 19 (2) or (3), or Article 21(1) of the Convention, it shall so inform the other institutions concerned.

Article 17: Payment of benefits on a provisional basis

(1) If the examining institution finds that the claimant is entitled to benefit under the legislation it applies, without reference to the periods of insurance completed under the legislation of the other Contracting Parties to which the worker has been subject, it shall make an immediate payment of this benefit on a provisional basis.

(2) Each institution which, in accordance with the provisions of Article 17(5), of the Convention, may calculate directly the benefit or partial benefit due to the claimant shall pay him such benefit immediately. If an institution other than the examining institution pays benefit directly to the claimant, it shall immediately inform the examining institution accordingly and retain any arrears due having regard to the application of the provisions of paragraph 7 of this Article, in favour of any institution which may have paid in excess of the amount due.

(3) Where the examining institution pays benefit under paragraph 1 of this Article, it shall deduct from the amount of such benefit the amount of benefit paid by any other institution in accordance with the preceding paragraph, as soon as it knows the amount in question.

(4) Where, in the examination of a request one of the institutions concerned, other than the examining institution, observes that the claimant is entitled to benefits under the legislation it applies, without the need to resort to periods of insurance accomplished under the legislations of the other Contracting Parties to which the claimant has been subjected, it shall immediately inform the examining institution, which shall immediately pay the amount of the benefits to the beneficiary, provisionally, on behalf of the first institution, without prejudice, where necessary, of the provisions of paragraphs 2 and 3 of this article.

(5) Where the examining institution should pay the benefits by virtue of paragraphs 1 and 4 of this article, it shall pay only the highest amount of benefits, without prejudice, where necessary, of the provisions of paragraphs 2 and 3 of this article.

(6) In case the examining institution does not pay the benefits by virtue of paragraphs 1, 2 or 4 of this article and in cases that can lead to delay, it should pay the person in question a retrievable advance the amount of which will be determined in keeping with the provisions of paragraphs 1 to 4 of article 17 of the Convention.

(7) During the final settlement of the request for benefits, the examining institution and the other interested institutions shall adjust the accounts as regards the amount of any provisional benefit paid corresponding to the provisional benefits paid and the advances made in keeping with paragraphs 1, 3, 4, 5 and 6 of this article. Sums overpaid by the said institutions may be deducted from the amount of benefits they are required to pay to the person concerned.

Article 18: Notification of the proportional supplement

(1) In the case referred to in Article 21(2) of the Convention, the examining institution shall calculate the final amount of the supplement which each institution concerned has to pay and advise them accordingly.

(2) For the purpose of applying the provisions of Article 21 of the Convention, amounts expressed in different national currencies shall be converted at the official rate of exchange prevailing on the first day of the month in which the final payment of the benefit due is made.

Article 19: Special case of recalculation of benefits

For the purpose of applying the provisions of Article 21(2) of the Convention, the provisions of Articles 16 to 19 of the Agreement shall apply with all the necessary differences having been considered.

Article 20: Notification of decisions by the institutions involved

(1) Each of the institutions concerned shall advise the claimant of the decision regarding his claim for benefit as soon as that decision can be taken as final, after consultation with the examining institution. Each institution shall at the same time advise the examining institution. Any decision shall indicate that it relates only to part of the total benefit that may be due, and shall also contain information concerning the appeals procedure, including time-limits, prescribed by the legislation concerned.

(2) After the benefit claim has been finally settled, the examining institution shall recapitulate and forward to the claimant all the decisions taken by the institutions concerned.

Article 21: Employment record

In order to expedite the settlement of benefit claims, the following rules shall be observed:

(a) where a person, formerly subject to the legislation of one or more Contracting Parties, is subject to the legislation of another Contracting Party, the competent institution of the latter Party shall apply to the institution of the other Contracting Party or Parties for all relevant information, particularly regarding the institutions to which the interested party has been affiliated and, where necessary, his registration numbers;

(b) at the request of the person concerned or of the institution to which he is affiliated, the institutions concerned shall begin, to the extent possible, to reconstitute his case-history as from one year prior to the date on which he will reach pensionable age.

Section 2. – Administrative and Medical supervision

Article 22: Administrative and Medical supervision

(1) If a recipient of:

(a) an invalidity benefit;

(b) an old-age benefit awarded subject to means testing;

(c) a survivor's benefit awarded on grounds of invalidity;

(d) a benefit awarded provided that the means of the beneficiary do not exceed the prescribed limit ;

Stays or resides in the territory of a Contracting Party other than the competent State, administrative and medical supervision shall be exercised at the request of the competent institution by the institution of the place of stay or residence, in accordance with the rules laid down by the legislation which the latter institution applies. However, the competent institution shall maintain the faculty of having the recipient examined by a doctor of its choice at its own expense.

(2.) If following the supervision referred to in the preceding paragraph reveals that the beneficiary is employed or has means in excess of the prescribed limit, the institution of the place of stay or residence shall report to the competent institution which requested the supervision. The report shall contain the information requested and shall state in particular the nature of the employment, the amount of the earnings or other income received by the beneficiary during the last full quarters and the normal remuneration paid in the same area to a worker in the occupational category to which the person concerned belonged in the occupation he followed before he became an invalid, over a reference period to be determined by the competent institution. Where applicable, a medical opinion as to the state of health of the person concerned shall also be given.

Article 23: Resumption of the provision of benefits after suspension

If, after suspension of the benefit he had been receiving, a person re-qualifies for benefit while residing in the territory of a Contracting Party other than the competent State, the institutions concerned shall exchange all the information necessary to enable the payment of benefit to be resumed.

Section 3. - Payment of Benefits

Article 24: Method of payment

Where the paying institution of a Contracting Party does not pay benefit directly top beneficiaries residing in the territory of another Contracting Party, such benefit shall be paid at the competent institution's request by the institution of the place of residence, in accordance with the procedures laid down in Articles 25 to 28 of this Arrangement. Where the paying institution pays benefit directly to such beneficiaries it shall so notify the institution of the place of residence.

Article 25: Notification to the paying agency

The institution responsible for paying benefit shall forward to the institution of the place of residence – hereinafter called the "paying agency" – a statement in duplicate setting out the benefit due; this statement must reach the said agency at least twenty days before the date on which the benefit is payable.

Article 26: Payment of arrears into the account of the paying agency

(1) Ten days before the date on which the benefit is payable, the paying institution shall remit, in the currency of the Contracting Party in whose territory it is situated, the amount of the benefit due as shown on the statement referred to in Article 25 of this Arrangement. Payment shall be made through the National Bank or a similar establishment in the name of the competent authority of the Contracting Party. The payment through another bank of that Contracting Party to the account opened in the name of the National Bank or in the name of another bank of the Contracting Party in the territory in which the paying agency is situated, to the latter's order. The payment shall be the last instalment. The paying institution shall simultaneously address a payment notice to the paying agency.

(2) The bank or a similar establishment into which the amount has been transferred shall credit the paying agency with the equivalent amount in the currency of the Contracting Party in whose territory that agency is situated.

(3) The name and headquarters of the banks referred to in paragraph 1 of the Article are mentioned in Annex 3.

Article 27: Payment of arrears by the paying agency

(1) The arrears mentioned in the statement referred to in Article 25 of this Agreement, shall be paid to the beneficiary by the paying agency on behalf of the paying institution in accordance with the procedure prescribed by the legislation the paying agency applies.

(2) The sum payable to the beneficiary shall be converted into the currency of the Contracting Party in whose territory he resides, at the rate of exchange at which, in accordance with the provisions of Article 26 of this Agreement, it was credited to the paying agency.

(3) Once the paying agency or any other agency it may designate becomes aware of any matter justifying the suspension or removal of benefits, it shall cease payment. This shall also be done when the beneficiary transfers his residence to the territory of a Contracting Party other than that in which the paying agency is situated.

(4) The paying agency shall advise the institution responsible for payment of any reason for non-payment and inform it of the date of any event justifying such action.

Article 28: Settlement of accounts

(1) The payment referred to in Article 27(1), of this Arrangement shall be cleared at the end of each payment period in order to determine the amounts actually paid to the beneficiaries or their legally-appointed representatives and the amounts outstanding.

(2) The total amount of the actual payments expressed in figures and in words in the currency of the Contracting Party in whose territory the institution responsible for payment is situated, shall be stated as agreeing with the payments effected by the paying agency and this statement shall be counter-signed by the latter's representative.

(3) The paying agency shall vouch for the fact that the payments shown are in order.

(4) Any difference between the amounts paid by the responsible institution, as expressed in the currency of the Contracting Party on whose territory it is situated, and the value, expressed in the same currency, of payments vouched for by the paying agency, shall be entered against subsequent sums due to be paid by the said responsible institution.

Article 29: Notification of transfer of residence

When the recipient of benefits payable under the legislation of one or more Contracting Parties transfers his residence from the territory of one Contracting Party to that of another Contracting Party, he shall notify the competent institution or institutions responsible for the payment of such benefit and also, *where appropriate*, the paying agency.

CHAPTER II: BENEFITS REGARDING ACCIDENTS AT WORK AND OCCUPATIONAL DISEASES

Section 1. General Provisions

Application of Article 27 of the Convention

Article 30: Benefits in kind in case of residence abroad

(1) In order to receive the benefits in kind provided for in Article 27(1)a, of the Convention, the employee shall submit to the institution of the place of residence a certificate certifying his entitlement to such benefits. This certificate shall be issued by the competent institution at the employee's request on the basis of information provided where appropriate, by the employer. The competent institution shall address copy of the attestation to the institution of the place of residence. In addition, where the legislation of the competent state so provides, the worker shall submit to the institution of the place of residence an acknowledgement of the notification of his occupational injury or disease.

(2) The certificate referred to in the preceding paragraph shall be valid until such time as the institution of the place of residence receives notice of its cancellation.

(3) For any claim for benefits in kind the employee shall submit the supporting documents normally required for the grant of benefits in kind under the legislation of the Contracting Party in whose territory he resides.

(4) In the event of hospitalisation the institution of the place of residence shall notify the competent institution, as soon as this information becomes available, of the date of entry, the probable duration of hospitalisation, and the date of discharge.

(5) The worker shall advise the institution of his place of residence of any change in his circumstances which might affect his entitlement to benefits in kind, in particular of any cessation or change of employment or occupational activity, or any change in his residence or stay. The competent institution shall likewise inform the institution of the place of residence when a worker's entitlement to benefit ceases. The institution of the place of residence may at any time request the competent institution to supply any information relating to the employee's entitlement to benefit.

(6) In case of stay outside the territory of the competent State (Article 27(1) b) and (c), the provisions of the preceding paragraphs shall apply mutatis mutandis, being understood that the institution of the place of stay is regarded as the institution of the place of residence.

Article 31: Benefits in kind in case of stay abroad

(1) In order to receive benefits in kind, the seconded worker referred to in Article 12(1) of the Convention shall submit to the institution of his place of temporary residence the certificate prescribed in Article 9 of this Agreement. When he has submitted this certificate he shall be presumed to have satisfied the conditions for entitlement to benefits in kind.

(2) In order to receive benefits in kind, the worker referred to in Article 12(1)b, of the Convention, employed in the territory of a Contracting Party other than the competent State, shall submit as promptly as possible to the institution of the place of temporary residence a statement issued by the employer or his agent within the two preceding calendar months. The statement shall indicate the date on which he began to work for that employer, and the name and address of the competent institution. When he has produced the above-mentioned statement, he shall be presumed to have satisfied the conditions for entitlement to benefits in kind. If he is unable to apply to the institution of the place of temporary residence before commencing medical treatment, he shall nevertheless receive such treatment on presentation of the said statement, as if he were insured with that institution.

(3) The institution of the place of temporary residence shall apply without delay to the competent institution to ascertain whether the worker referred to in paragraph 1 or 2 of this Article, as the case may be, satisfies the conditions for entitlement to benefits in kind. The institution of the place of temporary residence shall provide the aid benefits until a reply has been received from the competent institution, but for not longer than thirty days.

(4) The competent institution shall replay to the institution of the place of temporary residence within ten days of receiving that institution's enquiry. If the reply is in the affirmative, the competent institution shall indicate the maximum period, if any, during which the benefits in kind may be provided under the legislation which it applies, and the institution on the place of temporary residence shall continue to provide the said benefits.

(5) Instead of the certificate or statement referred to respectively in paragraphs 1 and 2 of this Article, the worker may submit to the institution of the place of temporary residence the certificate referred to in Article 30(1) of this Agreement. In that case, the provisions of the preceding paragraphs of this Article shall not apply.

(6) The provisions of Article 30(4) of this Agreement shall apply mutatis mutandis.

Article 32: Cash benefits in case of residence abroad

(1) In order to receive the cash benefits other than pensions provided for in Article 27(1)a(ii) of the Convention, the worker shall apply to the institution of his place of residence promptly becoming incapable of work, and submit as possible after, a certificate of incapacity for work issued by the doctor attending him. He shall also submit any other documents required by the legislation of the competent State, according to the type of benefit claimed.

(2.) The institution of the place of residence shall immediately transmit to the competent institution the documents referred to in the preceding paragraphs of this Article, indicating at the same time the probable duration of incapacity for work.

(3) As soon as possible, the institution of the place of residence shall undertake a medical examination of the worker and make the necessary administrative enquiries regarding his case, as if the said worker were insured by it, and shall notify the competent institution without delay of the findings. The competent institution may, if it so desires, have the worker concerned examined by a doctor of its choice at its own expense. Where this institution decides to refuse benefit on the grounds that the worker has failed to comply with the rules relating to the investigation of his case, it shall notify him of this decision, and at the same time send a copy of the decision to the institution of the place of residence.

(4) Termination of incapacity for work shall be notified without delay to the worker by the competent institution.. When this latter institution itself decides that the worker is again capable of work, it shall notify him of its decision and at the same time send a copy of the decision to the institution of the place of residence.

(5) Where, in the same case, two different dates are set by the institution of the place of residence and by the competent institution for the termination of incapacity for work, the date set by the competent institution shall apply.

(6) When the worker resumes work, he shall notify the competent institution..

(7) The competent institution shall pay cash benefits by any appropriate means, and shall advise the institution of the place of residence of such payments. Where benefit is paid by the institution of the place of residence on behalf of the competent institution, the competent institution shall inform the worker of his entitlement in the manner prescribed by the legislation which it applies, and shall also advise him of the institution charged with paying the benefits. It shall at the time inform the institution of the place of residence of the amount of benefits payable, the dates of payment, and the maximum period for which it is payable under, the legislation of the competent State. The amount of benefit payable by the institution of the place of residence shall be converted at the official rate of exchange prevailing on the first day of the month in which benefit is paid.

Article 33: Cash benefits in case of stay abroad

(1) In order to receive cash benefits other than pensions provided for in Article 27(1)b(ii), of the Convention, the employee shall apply to the institution of his place of temporary residence as promptly as possible after becoming incapable of work, and submit a certificate of incapacity for work issued by the doctor attending him, if so required by the legislation applied by the competent institution or by the institution of the place of temporary residence. He shall also indicate his address in the country of temporary residence and the name and address of the competent institution.

(2) The institution of the place of temporary residence shall without delay transmit to the competent institution the certificate referred to in the preceding paragraph of this Article indicating in particular the probable duration of incapacity for work.

(3) Workers other than seconded workers referred to in Article 12(1)a of the Convention, whose state of health is found by medical examination to be such as not to prevent them from returning to the territory of the Contracting Party where they reside shall immediately be notified to this effect by the institution of the place of temporary residence, which shall also send a copy of the notification to the competent institution.

(4) In addition, the provisions of Article 32(3) to (7) of this Agreement shall apply with the necessary differences having been considered

Article 34: Declarations and enquiries and exchange of information between institutions

(1) If an occupational injury or disease should occur in the territory of a Contracting Party other than the competent State, it should be declared in accordance with the provisions of the legislation of the competent State, without prejudice to any existing legal provisions in the territory of the Contracting Party where the injury or disease occurred, the application of which is mandatory in the case. This declaration shall be sent to the competent institution and copied to the institution of the place of residence.

(2) The institution of the Contracting Party in whose territory the occupational injury or disease occurred shall forward in duplicate to the competent institution the medical certificates issued in that territory and, at the request of the latter institution, all relevant information.

(3) The certificate indicating that the victim of the injury or disease has fully recovered or hat his condition has stabilised must where appropriate give a detailed description of his conditions and contain information on the final consequences of the occupational injury or disease. Any costs incurred shall be met by the institution of the place of residence or by the institution of the place of temporary residence, as the case may be, at the rate applied by that institution and at the expense of the competent institution.

(4) The competent institution shall notify the institution of the place of residence, or the institution of the place of temporary residence, as the case may be, of the date of recovery of the worker or of the stabilisation of his condition and also, if relevant, of any decision regarding an award of a pension.

Article 35: Disputes concerning the occupational nature of the accident or disease

(1) If, in a case covered by Articles 27(1) of the Convention the competent institution questions whether the legislation relating to occupational injuries or diseases is applicable, it shall immediately inform the institution of the place of residence or the institution of the place of temporary residence which suspends the provision of benefits in kind.

(2) When a final decision of the question has been reached, the competent institution shall immediately notify the institution of the place of residence or the institution of the place of temporary residence which has provided the benefit in kind. If it is an occupational accident or disease, the latter institution shall resume the provision of the benefits in kind.

Application of Article 30 of the Convention

Article 36: Assessment of the degree of incapacity

(1). To enable the degree of incapacity to be assessed, for the purpose of Article 30 of the Convention, the worker shall provide the competent institution of the Contracting Party to whose legislation he was subject when the occupational injury or disease occurred with full information concerning any previous occupational injuries or diseases he suffered while subject to the legislation of any other Contracting Party, whatever the degree of incapacity caused by such previous occupational injuries r diseases.

(2). The competent institution may apply to any other institution previously competent for whatever information it considers necessary.

Application of Article 32 of the Convention

Article 37: Exposure to the risk of an occupational disease in several States

(1) In the case covered by Article 32(1) of the Convention, the declaration notifying an occupational disease shall be sent either to the institution competent in respect of occupational disease, of the Contracting Party under whose legislation the worker was last engaged in an occupation liable to cause the disease under consideration, or to the institution of the place of residence, which shall transmit the declaration to the first-mentioned institution.

(2) If the institution receiving the declaration considers that an occupation liable to cause the disease in question was last followed under the legislation of another Contracting Party, it shall transmit the declaration and the accompanying documents to the corresponding institution of that Party and inform at the same time the person concerned.

(3) If the institution of the Contracting Party under whose legislation the worker was last engaged in an occupation liable to cause the disease in question finds that he or his survivors fail to satisfy the conditions of that legislation, taking into account the provisions of Article 32(2), (3) and (4) of the Convention, the institution in question:

(a) shall immediately transmit to the institution of the Contracting Party under whose legislation the worker was previously engaged in an occupation liable to cause the disease in question the declaration and all accompanying documents, including the findings and reports of medical examinations carried out by the former institution, together with a copy of the decision referred to in the following subparagraph;

(b) shall, at the same time, inform the person concerned of its decision stating the grounds on which benefit is refused, the procedure and time-limits for appeal, and the date on which the records of the case were transmitted to the institution referred to in the preceding subparagraph.

(4) If necessary, the case shall be referred back, following the same procedure, to the corresponding institution of the Contracting Party under whose legislation the worker was first engaged in an occupation liable to cause the disease in question.

Article 38: Appeal against a decision to reject a claim

(1) If an appeal is made against rejection of a claim by the institution of one of the Contracting Parties under whose legislation the worker was engaged in an occupation liable to cause the disease under consideration, that institution shall inform the institution to which the declaration, if any, was transmitted, in accordance with the procedure in Article 37(3) of this Agreement, and subsequently inform it of the final decision taken.

(2) Where entitlement to benefit is established under the legislation applied by the institution to which the declaration was transmitted in accordance with the procedure prescribed in Article 37(3) of this Agreement, account being taken of the provisions of Article 33(2),(3) and (4) of the Convention, that institution shall make advance payments to the person concerned, the amounts being determined in consultation with the institution against whose decision the appeal was lodged. If, following the appeal, the latter institution is obliged to provide benefits, it shall refund to the former institution the advance payments made, deducting an equivalent amount from the benefit payable to the person concerned.

Application of Article 33 of the Convention

Article 39: Aggravation of an occupational disease

In case the referred to in Article 33 of the Convention, the employee shall provide the institution of the Contracting Party from which he claims benefit with full information on any benefits previously received by him in respect of the occupational disease in question and on any occupations he has followed since the award of these benefits. The institution may request such information as it considers necessary from any other previously competent institution.

Section 2. Submission and Examination of Pension Claims

Article 40. Submission and examination of pension claims excluding claims of occupational diseases to which the provisions of Article 27 of the Convention are applied

(1) Where an employee or his survivors residing in the territory of a contracting party seek to benefit from pension or a benefit meant to supplement a pension under the legislation of another Contracting Party, They shall address their claim either to the competent institution or to the institution of the place of residence that transmits it to the competent institution. The presentation of the claim shall be submitted to the following rules:

(a) It must be accompanied with the requisite supporting documents and shall be submitted on the forms prescribed by the legislation of the competent State;

(b) The accuracy of the information provided by the claimant must be substantiated by official documents attached to the claim form or corroborated by the competent authorities of the Contracting Party in whose territory he resides.

(2) The competent institution shall convey its decision directly to the claimant.

Section 3. Administrative and Medical Supervision

Article 41: Administrative and medical supervision

If the recipient of a pension temporarily resides or resides in the territory of a Contracting Party other than the competent State, administrative and medical supervision and also such medical examinations as are necessary for the revision of pensions shall be carried out at the request of the competent institution by the institution of the place of temporary residence or residence in accordance with the rules laid down in the legislation which the latter institution applies. However, the competent institution may have the recipient examined by a doctor of its choice at its own expense.

Section 4. Payment of Pensions

Article 42: Payment of pensions

Pensions payable by the institution of a Contracting Party to claimants residing in the territory of another Contracting Party shall be paid in accordance with the provisions of Articles 24 to 29 of this Arrangement.

CHAPTER III. FAMILY AND MATERNITY BENEFITS

Application of Article 35 of the Convention

Article 43: Adding together of periods

1. In order to benefit from the provisions of Article 35 of the Convention, the person concerned shall submit to the competent institution a certificate setting out the periods of insurance or employment accomplished under the legislation of the Contracting Party to which he was previously last subject, and he shall supply any additional information required under the legislation applied by that institution.

2. The certificate referred to in the preceding paragraph shall be issued, at the request of the person concerned, by the institution competent in relation to family and maternity benefits of the Contracting Party to whose legislation he was previously last subject. If the person concerned does not submit such a certificate, the competent institution shall apply to that institution for it.

3. Where it is necessary to take into account periods of insurance or employment, completed under the legislation of any other Contracting Party in order to satisfy the conditions prescribed by the legislation of the competent State, the provisions of the preceding paragraphs of this Article shall apply mutatis mutandis.

Application of Article 36 of the Convention

Article 44: Maternity benefits in the case of residence or stay abroad

1. In order to receive the daily maternity benefits provided for in Article 36 of the Convention, the salaried worker shall apply to the institution of the place of residence or stay as promptly as possible after termination or work, and submit a certificate to the effect that she has ceased to work, issued by the employer as well as any other documents required by the legislation of the competent State.

2. The institution of the place of residence or stay shall immediately transmit to the competent institution the documents referred to in the preceding paragraph of this Article.

3. The competent institution shall pay the daily maternity benefits by any appropriate means, for example by international money order, and shall advise the institution of the place of residence of such payments.

Application of Article 37 of the Convention

Article 45: Family benefits in the case of residence abroad

1. In order to benefit from the provisions of Article 37 of the Convention, the person concerned shall apply to the competent institution, if necessary through his employer.

2. In support of his claim the worker concerned shall submit a certificate as to his family status issued by the competent registration authorities in the territory of the Contracting Party in which the members of that worker's family reside, if such certificate is normally issued by above-mentioned authorities; and if not, by the institution designated by the competent authority of that Contracting Party. This certificate shall be renewed annually.

3. The employee concerned shall also, where appropriate and at the request of the competent institution, provide information identifying the person to whom family benefits are to be paid in the territory of the Contracting Party where the members of that worker's family reside.

4. The employee concerned shall inform the competent institution, if necessary through his employer, of any change in the circumstances of his members of family which might affect his entitlement to family benefits, and in particular of any change of residence and any alteration in the number of members of family in respect of whom family benefits are payable.

Article 46: Special procedures for the payment of family allowances

1. If the person concerned has been employed during any calendar month in the territory of two Contracting Parties, the family benefits he may claim shall be paid for the whole month by the institution which was competent at the beginning of this month in accordance with the legislation it applies.

2. If the institution of one Contracting Party has paid family benefits for a month, and they should have been paid by the institution of another Contracting Party, the incorrect payments of benefits shall be adjusted between the two institutions.

CHAPTER IV: MEDICAL CARE AND SICKNESS BENEFITS

Application of Articles 38 to 40 of the Convention

Article 47: Report of a disease occurring outside the territory of the competent state

1. Where the disease occurs in the territory of a Contracting Party other than the competent State, the incidence shall be reported in accordance with the provisions of the legislation of the competent State, without prejudice to any existing legal provisions in the Contracting Party where the disease occurred, the application of which is mandatory for such a case.

The report shall be forwarded to the competent institution and a copy thereof to the institution in the place of residence.

2. The institution of the Contracting Party in whose territory the disease occurred shall forward in duplicate to the competent institution, the medical certificates issued in that territory, and, at the request of the latter institution, all relevant information.

Article 48: Conditions for granting benefits in kind

1. In order for the worker and his family to receive benefits in kind, he shall submit to the institution of his place of residence, a certificate of coverage issued by the competent institution.

2. The certificate shall indicate among other details, his medical insurance references as well as the name and address of the competent institution. The employee, on production of this certificate, shall be deemed to have satisfied the conditions for entitlement to benefits in kind. Where he is unable to apply to the institution of the place of temporary residence before receiving medical treatment, he shall receive such benefits as if he were affiliated to the institution.

3. The institution of the place of temporary residence shall without delay request the competent institution to confirm whether the worker referred to in paragraph 1 of this Article satisfies the conditions for entitlement to benefits in kind. Pending the receipt of the reply from the competent institution, provided that this period shall not exceed 30 days, the institution shall provide these benefits to the worker.

4. The competent institution shall forward its reply to the institution of the place of temporary residence within ten (10) days of receiving that institution's enquiry. Where the reply is in the affirmative, the competent institution shall indicate the maximum period, if any, during which the worker may receive benefits under the applicable legislation, and the institution of the place of temporary residence shall continue to provide the aforementioned benefits.

The provisions of Article 50 of this Arrangement shall apply in the event of a negative reply.

Article 49: Conditions for granting benefits in cash

1. In order to receive daily allowance, the worker shall, upon becoming incapable to work and as soon as possible, apply to the institution of the place of temporary residence. He shall submit a certificate of incapacity for work issued by his personal doctor and indicate his address in his country of temporary residence as well as the name and address of the competent institution.

2. The institution of the place of temporary residence shall immediately forward to the competent institution, the document referred to in the preceding paragraph, indicating among other details, the probable duration of the incapacity for work.

3. The institution shall by any appropriate means, pay the daily allowances and shall inform the institution of the place of residence thereof.

Article 50: coverage of family members in the event of illness

1. In order to receive benefits in respect of diseases for members of his family, the worker shall present a certificate indicating the members of his family residing in the territory of a contracting party other than the competent State. This certificate shall be issued by the institution of their place of residence.

2. The certificate referred to in the preceding paragraph shall be valid for a period of twelve (12) months with effect from the date of its issuance. In the case of a renewal, its validity shall be with effect from the date of renewal. The person concerned shall immediately notify the competent institution of any amendment to the certificate, and such modification shall take effect on the date prescribed by the legislation being applied by the competent institution.

3. In addition to the certificate referred to in paragraph 1 of this Article, the competent institution may require the person concerned to produce recent birth, death or marriage certificates of members of his family residing in the territory of a Contracting Party other that the competent State, where such documents are normally issued by the authorities of that party.

CHAPTER V. UNEMPLOYMENT/SOCIAL BENEFITS

Implementation of Article 41 of the Convention

Article 51: To claim unemployment/social benefits in the host country, the applicant shall, upon submitting his/her claim to the relevant Institution, present proof of his/her unemployment status and that he/she was subject to the legislation of the contracting party governing payment of benefits applied for.

Article 52: Any unemployed person who wishes to claim for unemployment/social benefits in conformity with the legislation of one contracting party, and who wishes to change his/her residence to the territory of another contracting party, shall meet the requisite conditions laid down in the legislation of the second party in order to qualify for unemployment/social benefits, provided that he/she submits his/her claim to the Institution of his/her new place of residence within thirty (30) days after the change of residence. The Institution of the new place of residence shall pay unemployment/social benefits in conformity with provisions of the legislation of this Institution, at the expense of the competent Institution of the first party.

Article 53: Where the legislation of the Institution of the place of residence provides for maximum duration for the payment of unemployment/social benefits, this Institution may take into account, where necessary, the period during which the Institution of the other contracting party has paid unemployment/social benefits, after the last confirmation of entitlement to unemployment/social benefits.

Article 54: Where the legislation of one contracting party provides that calculation of unemployment/social benefits shall be based on the amount of benefits previously paid, the Institution applying this legislation shall exclusively consider benefits paid to the claimant or his/her last activity in the territory of the other party or, the equivalence of the amount usually paid in the place of residence for an activity similar to his/her last activity in the territory of another contracting party.

Article 55: Where the legislation of one contracting party provides that unemployment/social benefits shall vary with the number of members in the applicant's family, the institution shall apply this legislation by equally taking into account members of the family residing in the territory of another contracting party as if they were residing in the territory of the first party.

Article 56: Implementation of provisions of Articles 51 to 55 by two contracting parties may be the subject of a bilateral agreement between the parties.

The agreement referred to in the paragraph above shall specifically indicate:

a. the categories of persons subject to Articles 51 to 55;
b. the period during which the Institution of one contracting party shall pay unemployment/social benefits, on behalf of another contracting party;
c. the terms governing repayment of unemployment/social benefits paid by the institution of one contracting party, at the expense of the institution of another contracting party.

TITLE VI. – MISCELLANEOUS PROVISIONS

Article 57: Mutual administrative assistance in case of payment of benefits

The institution of the person who has received benefits that were not payable to him, shall cooperate with the institution of any other Contracting Party which has paid such benefits should the latter institution seek recovery from the beneficiary in question

Article 58: Mutual assistance in case of overpayment - recovery of excess payments

If the institution of a Contracting Party has paid to a beneficiary a sum in excess of his entitlement, that institution may request the institution of any other Contracting Party responsible for payment of benefits of the same kind to that person to deduct the amount overpaid from the payment it is making to him. The latter institution shall withhold that amount to the extent to which such a deduction is permissible under the legislation it applies, as if the overpayment had been made by it, and transfer the amount so withheld to the creditor institution.

Article 59: Recovery of advances

If the institution of a Contracting Party has made an advance payment of benefits, the institution may request the institution of any other Contracting Party paying benefits of the same nature for the beneficiary of the advance to deduct the amount of the advance from the payments due to him for the same period. The latter institution shall transfer the amount to the creditor institution.

Article 60: **Reimbursement of benefits in kind duly served.**

1. If entitlement to benefits is not recognised by the institution stated to be the competent one, the cost of the benefits in kind provided by the institution of the place of temporary residence under the presumption in Article 31(2) of this Agreement shall be refunded by the institution stated to be the competent one.

2. Expenses incurred by the Institution of the place of residence as benefits in kind paid by virtue of the provisions of paragraph 35 of this Arrangement while the person concerned is not entitled to benefits, shall be refunded by the competent institution.

3. If an institution has refunded benefits incorrectly paid, in accordance with the provisions of paragraphs 1 or 2 of this Article, it shall remain the creditor of the recipient for the amount of the benefit incorrectly paid.

Article 61: **Disputes concerning the applicable legislation or the liable institution**

In the event of a dispute between the institution or competent authorities of two or more Contracting Parties concerning either the legislation applicable under Title II of the Convention of the institution which is to provide benefit, the person who would have been able to claim benefit in the absence of such a dispute shall provisionally receive the benefit prescribed by the legislation which the institution of the place of residence applies or, where the person concerned does not reside in the territory of one of the Contracting Parties concerned, by the legislation of the Contracting Party to which he was previously last subject. After settlement of the dispute, the cost of the benefits paid provisionally shall be borne by the institution declared as liable to pay the benefits.

Article 62: **Enquiries in the territory of another Contracting Party**

If, in order to apply its national legislation, or the Convention, in specific cases, the competent institution of a Contracting Party considers it necessary to conduct an enquiry in the territory of another Contracting Party, it may appoint an investigator for the purpose, subject to the agreement of the competent authorities of the two Parties concerned. The competent authority of the Contracting Party in whose territory the enquiry is to take place shall give every assistance to the investigator and appoint a person to assist him in consulting the records and all other documents relevant of the case.

Article 63: **Notifications**

Any agreements concluded under Article 28, Article 34(3), Article 42(3) and Article 61 of the Convention, or under Article 4 of this Agreement, shall be communicated to the President of the ECOWAS Commission within two months of the date of their entry into force.

Article 64: **Annexes to the Arrangement**

1. The Annexes referred to in Article 3 of this Arrangement shall be an integral part thereof.

2. Any amendment of the Annexes to this Agreement shall be notified by the Contracting Party concerned to the President of the ECOWAS Commission.

TITLE VII. – APPLICATION OF THE ADMINISTRATIVE ARRANGEMENTS

Article 65: Application to ECOWAS Member State

Application of this Administrative Arrangement shall be deemed to commence from the entry into force of the Supplementary Act A/SA…/06/13 adopting the Convention on Social Security. It shall have the same duration as the said Supplementary Act.

Article 66: Application to Non-Member States

In respect of non-member States who have acceded to the Supplementary Act A/SA…/06/13 adopting the Convention on Social Security, the Administrative Arrangement shall automatically be deemed to be applicable to them on the date of entry into force of the said Supplementary Act for each of these States

ANNEX 1

Article , subparagraph 7 of the Convention and Article 3, paragraph 1 of the Arrangement

Competent Authorities

BENIN	The Minister responsible for Social Security,	Cotonou
BURKINA FASO	"	Ouagadougou
CAPE VERDE	"	Praia
COTE D'IVOIRE	"	Abidjan
THE GAMBIA	"	Banjul
GHANA	"	Accra
GUINEA	"	Conakry
GUINEA BISSAU	"	Bissau
LIBERIA	"	Monrovia
MALI	"	Bamako
NIGER	"	Niamey
NIGERIA	"	Abuja
SENEGAL	"	Dakar
SIERRA LEONE	"	Freetown
TOGO	"	Lomé

ANNEX 2

Article 3, subparagraph 1, of the Convention and Article 3, paragraph 2, of the Arrangement

Competent Institutions and Benefits

BENIN

La Caisse Nationale de Sécurité Sociale

- Family benefits and maternity benefits
- Work-related accidents and occupational diseases
- Old age benefits, Disability benefits and Survivors' benefits.

BURKINA FASO

La Caisse Nationale de Sécurité Sociale

- Family benefits;
- Old age benefits
- Maternity benefits
- Occupational risks

CAPE VERDE

L'Institut d'Assurance et de Sécurité Sociale

- For old age, invalidity and survivors' benefits
- Benefits in respect of occupational injuries and diseases
- Family benefits:

Le Service National de Santé

- Prestations de maladies et de maternité

COTE D'IVOIRE

La Caisse Nationale de Prévoyance Sociale

- Family benefits and maternity benefits
- Work-related accidents and occupational diseases
- Old age benefits, Disability benefits and Survivors' benefits.

THE GAMBIA

Social Security and Housing Finance Corporation

- For old age, invalidity and survivors' benefit, work-related accidents, Occupational diseases and unemployment benefits;

The individual Employer

- For benefits in respect of occupational injuries and diseases:

GHANA

Social **Security and National Insurance Trust**

- For old age, invalidity and survivors' benefits: Social

Individual Employer

- For benefits in respect of occupational injuries and diseases, sickness and maternity benefits:

GUINEA	**La Caisse Nationale de Sécurité Sociale**; - Family and maternity benefits - Work-related accidents, occupational diseases - Old age benefits, Disability benefits and Survivors' benefits.
GUINEA BISSAU	**Instituto Nacional de Segurança Social (INSS)** - Old age benefits, Disability benefits and Survivors' benefits. - Work-related accidents, occupational diseases - Family and maternity benefits
LIBERIA	**National Social Security Welfare Corporation** - Occupational diseases - Work-related accidents - Old age benefits - Disability benefits - Survivors' benefits.
MALI	**Institut National de Prévoyance Sociale** - Family benefits; - Prevention and compensation of work-related accidents, occupational diseases - Old age benefits, Disability benefits and Survivors' benefits **Caisse Nationale d'Assurance Maladie (CANAM)** - Healthcare benefits.
NIGER	**Caisse Nationale de Sécurité Sociale** - Family benefits; - Work-related accidents and occupational diseases - Pensions

NIGERIA	**National Social Insurance Trust Fund, National Pension Commission** - For old age, invalidity and survivors' benefits, sickness and maternity benefits: **National Provident Fund.** - For benefits in respect of occupational injuries and diseases:
SENEGAL	**Institution de Prévoyance-Retraite du Sénégal** - For old age, invalidity and survivors' benefits **Caisse de Sécurité Sociale** - For benefits in respect of occupational injuries and diseases, family and maternity benefits **Institutions de Prévoyance Maladie** - Occupational diseases
SIERRA LEONE	**National Social Security and Insurance Trust (NASSIT)** - For old age benefits - Invalidity benefits - Survivors' benefits **Ministry of Labour and Social Security/ Individual Employer** - For benefits in respect of occupational injuries and diseases
TOGO	**Caisse Nationale de Sécurité Sociale** - Family and Maternity benefits - Work-related accidents and occupational diseases - For old age, invalidity and survivors' benefits **Institut National d'Assurance Maladie Obligatoire** - Healthcare benefits **Caisse des Retraités du Togo** - For old age, invalidity benefits; - Family benefits

ANNEX 3

Article 3 of the Arrangement

Institutions designated by the competent authorities as responsible for issuing a certificate of temporary employment abroad

BENIN	Benin Social Security Office
BURKINA FASO	National Social Security Fund
CAPE VERDE	Institute of Insurance and Social Security
COTE D'IVOIRE	National Social Insurance Fund
GAMBIA	Social Security and Housing Finance Corporation
GHANA	Social Security and National Insurance Trust Ministry of Labour
GUINEA	National Social Security Fund
GUINEA BISSAU	National Institute of Insurance and Social Security
LIBERIA	National Social Security and Welfare Corporation Ministry of Labour
MALI	National Social Insurance Institute
NIGER	National Social Security Fund
NIGERIA	National Social Insurance Trust Fund Ministry of Labour and Productivity
SENEGAL	Social Security Fund, Ministry of Labour
SIERRA LEONE	The individual employer - Ministry of Labour
TOGO	National Social Security Fund - Ministry of Labour

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President of the Republic of Benin

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For and on behalf of the President of the Togolese Republic

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

FORTY-THIRD ORDINARY SESSION OF THE AUTHORITY OF HEADS OF STATE AND GOVERNMENT

Abuja, 17 – 18 July 2013

SUPPLEMENTARY ACT A/SA.6/07/2013 ON THE ADOPTION OF AN ECOWAS RESEARCH POLICY

THE HIGH CONTRACTING PARTIES,

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

MINDFUL of Article 27 paragraphs 2(a) and (b) of the Revised Treaty relating to the harmonisation of Community policies on scientific and technological research;

MINDFUL of Decision A/DEC.8/08/94 relating to the harmonisation of the macro-economic policies of the ECOWAS Member States;

CONSIDERINGthat the national scientific and technological research policies of the ECOWAS Member States are experiencing operational difficulties which are an impediment to the development of scientific research in the region;

HAVING OBSERVED such dysfunctional trends within the system as necessitate the introduction of corrective measures at the regional level;

RESOLVED to introduce appropriate corrective measures through the harmonisation of national scientific and technological research policies and to ensure their most timely implementation in the interests of the global and balanced development of the ECOWAS region;

CONVINCED of the need to endow the ECOWAS region with an adequateregional scientific and technological research policy founded on the principles of subsidiarity and complementarity;

DESIROUS of putting in place a regional research policy which is fully compliant with the objectives of ECOWAS Vision 2020 for successful integration within the research sector;

ON THE RECOMMENDATION of the meeting of Ministers in charge of for Scientific Research held at Cotonou, on 27 June 2012;

HEREBY AGREE AS FOLLOWS

Article 1 : Definitions

For the purposes of this Supplementary Act, the following terms and expressions shall have the meanings defined hereunder:

ECORP :ECOWAS Research Policy;

ECOWAS Commission: the ECOWAS Commission established under the terms of Article 17 of the ECOWAS Revised Treaty as amended in June 2006;

Community : the Economic Community of West African States as referred to under Article 2 of the ECOWAS Revised Treaty;

Council: the Council of Ministers as established by Article 10 of the ECOWAS Revised Treaty;

Member State : a State party to the ECOWAS Revised Treaty;

Scientific Research : refers to the sum of actions undertaken with a view to generating and developing knowledge; it refers to a rigorous methodical approach designed to produce an explicit response to a specifically identified problem, contributing thereby to the advancement of knowledge in a particular domain;

Basic Research : research which is basic in nature as long as it seeks to build up the body of knowledge in one or more disciplines;

Applied Research: research based on the utilisation of theories, principles and, more generally, knowledge, as a means of resolving practical problems. Applied research is not primarily designed to generate new knowledge;

Researcher :an individual who conducts research activities on a part or full-time basis, in association with a research institution, or otherwise.

Article 2 : Objectives

This Supplementary Act defines the objectives of the ECOWAS Regional Research Policy, which are the following:

1. To identify a general reference framework for research at the ECOWAS level, which will serve as a preferred national and regional development tool;

2. To define the organisational and institutional framework and the allocation of responsibilities within the area of research activity;

3. To create an enabling environment for the conduct of research activities and continuing skills development;

4. To develop a sense of scientific solidarity within the Community and strengthen scientific cohesiveness and strategic partnership;

5. To ensure compliance with existing national and regional legislation designed to protect and move scientific research forward;

6. To enable research to contribute its quota to the accomplishment of the mission and objectives of ECOWAS Vision 2020.

Article 3 : Guiding Principles

The guiding principles informing this policy are the following:

1. Collaboration: collaboration between researchers, decision-makers, end-users of research findings and other development stakeholders;

2. Consistency: consistency with national research policies and other regional policies;

3. Awareness: uniform and accepted understanding of the importance of research by all stakeholders;

4. Appropriate Strategy: relevance of strategies capable of effectively contributing to the accomplishment of the mission and objectives of ECOWAS Vision 2020;

5. Networking/Synergy: enhanced relations and interactions between stakeholders in research work;

6. Responsibility and Feedback Obligation: a monitoring-evaluation system for implementation of the research policy;

7. Learning: use of research to promote training, build skills and innovativeness for positive change in the ECOWAS region;

8. Subsidiarity and Comparative Advantage: reliance on the areas of competence of the different stakeholders for the implementation of the research policy.

Article 4 : Scope of Application

1. This policy is applicable to all stages of the research conducted by researchers in the ECOWAS region, with particular reference to those basic and applied areas of research conducted in the formal research establishments of the region;

2. All research institutions established in the ECOWAS region are covered by this policy.

Article 6 : Problems of Research

1. Inadequacy

On the whole, research in West Africa has made progress in terms of trained human resource capability and creation of institutions. However, scientific output remains inadequate, frequently ill-adapted to developmental issues, and remains significantly backward in comparison with other regions of the world.

The main problems which the regional research policy is expected to resolve relate to the organisation, institutional supervision and management of research activities.

2. Organisation of Research

The following are the main problems encountered in the organisation of research:

a. Lack of up-to-date legislationto regulate the different areas of scientific research;

b. Virtual non-existence of mechanisms for the accreditation of research units at the regional level;

c. Insufficient interaction between research institutions and other stakeholders (government, the civil society, the private sector, etc.), resulting in a relative compartmentalisation of researchers;

d. Poor interface between research, the market and social demand.

3. Institutional Supervision of Research

The following are the main difficulties in the way of institutional supervision:

a. Near absence of national research policy papers, which creates problems in the coordination of research activities and the evaluation of progress accomplished, as well as perpetuating weaknesses which must be corrected in order to optimise the effectiveness of national research activities;

b. Relatively limited influence of supervisory research authorities, leading to ineffectiveness in the definition of priorities and the coordination of research units;

c. Inadequacy of funds allocated to research;

d. Heavy dependence of research on external aid.

4. Management of Research Activities

The following are the persisting problems in the management of research activities:

a. Poor working conditions for researchers in the Member States;

b. Inadequacy in the numbers of research personnel, and low staff turnover;

c. Poor supervision of young researchers (particularly at the Doctorate level);

d. Insufficient support for extra-academic research (companies, pharmacopoeia, etc.);

- Ineffective policy on the exploitation of research findings;
- Ineffective protection of intellectual property rights.

<u>Article 7</u> :Areas of Intervention

The areas of intervention covered by ECORP concern all issues relating to the development of the ECOWAS Member States and presenting a special interest for the ECOWAS Commission.

They are:

- Economicaffairs;
- Regionalintegration;
- Agriculture and foodsecurity;
- Human and social development;
- Political affairs, peace and security;
- Governance and democracy;
- Legal affairs;
- Science and technology;
- Infrastructure;
- Energy, water, the environment and natural resources.

Article 8 : **ORGANISATIONAL FRAMEWORK**

Implementation of the regional research policy will entail the development and application of institutional, legal, technical and financial instruments, with the involvement of all stakeholders at both regional and national levels. It will be underpinned by an organogramme indicating lines of responsibility and levels of involvement of stakeholders in the regional research agenda.

Article 9 : Institutional and Legal Levels

1. At the Level of the States

a. Adoption or update of an appropriate national research policy;

b. Formulation of operational action plans for implementation of the national research policy;

c. Adoption or update of relevant legal and regulatory texts covering the different areas of scientific research.

2. At the Regional Level

a. Creation of a technical steering and monitoring committee for implementation of the regional research policy;

b. Creation of thematic consultative and monitoring committees for research development.

c. Creation of regional thematic research networks, consultative frameworks and forums for exchange between researchers;

d. Identification of a regional accreditation mechanism for research centres and institutions;

e. Upgrade and creation of specialised regional research centres;

f. Formulation of a regional research development master plan;

g. Implementation of multi-year regional research programmes.

Article 10 : At the Financial Level

a. Allocation of at least 1% of Gross Domestic Product by each State toward the financing of national research, in accordance with the Lagos Declaration of 1980;

b. Creation, wherever needed, of a national research development fund;

c. Creation of a regional research support fund;

d. Creation of innovative research financing mechanisms.

Article 11 : Stakeholders and Sharing of Responsibility

1. Roleof the Stakeholders

The main stakeholders in the implementation of the regional research policy are the national and regional bodies listed below:

a. **The ECOWAS Commission:** lays down guidelines, drives, encourages, coordinates and monitors policy with a view to ensuring the proper implementation of decisions approved at the regional level;

b. **The Member States :** participate in the definition and implementation of research policies, programmes and projects at both national and regional levels. They set up coordinating mechanisms at the national level;

c. **Research Institutions (national and regional)** : work to achieve the revitalisation of the research sector and are consulted on regional and national options within the framework ofdevelopment policies;

d. **Regional Integration Organisations** : are consulted on issues relating to consistency between the policies developed across the entire ECOWAS region;

e. **The Private Sector and the Civil Society**: are involved in the identification of priorityareasin research and in project and programme implementation;

f. **The Technical and Financial Partners**: support ECOWAS and the Member States in the formulation, implementation and monitoring of regional and national research policies.

2. Organisational Structure forECORP Implementation

The organisational structure for ECORP implementation seeks to develop political and strategic guidelines, synergy with national and regional institutions,interdisciplinarity, viability, effective management, ownership of the project by all stakeholders and a steering mechanism to ensure its optimum effectiveness. Itcomprises the following organs:

a. A Technical Steering Committee composed of the research coordinating agencies of the Member States and of the ECOWAS Commission;

b. An Advisory Thematic Committee composed of experts in specific areas of research.

Article 12 : **STRATEGIC GUIDELINES**

The different strategic guidelines for ECORP are the following:

1. Upgrade of the Research Environment

The objective of this action is to ensure the promotion of research and researchers, and requires the following priority measures:

a. Development of an institutional and legal framework for research;

b. Research financing.

2. Capacity Building of Human and Institutional Resources

The priority measures under this heading are as follows:

a. Training of the stakeholders involved in research;

b. Facilitation of access to information by the research institutions;

c. Creation of specialised national and regional research poles;

d. Equipment of the research institutions.

3. Exploitation of Research Findings

The priority measures under this heading are as follows:

a. Development of publication mechanisms for research work;

b. Development of exploitation and extension mechanisms for research findings;

c. Development of research ICTs.

4. Partnership Development

This partnership involves relations between the researchers of the region on the one hand and between them and other stakeholders (research institutions, Member States, nationals in the diaspora, the private sector and civil society, and the ECOWAS Commission) on the other. Priority actions in this regard are:

a. Linking up of researchers of the region with a view to facilitating the exchange of experiences, knowledge and good practices;

b. Strengthening of the collaboration between research institutions and other stakeholders;

c. Strengthening of strategic collaboration with stakeholders outside the ECOWAS region.

Article 13 : Implementation

1. Implementation of the regional research policy is a continuous process based on the implementation of multi-year rolling research programmes.

2. A participatory governance approach under the leadership of ECOWAS is the preferred form chosen for implementation purposes. Under this approach, the research networks will work in synergy.

3. Regional research policy will be updated as necessary, in line with developments in the ECOWAS Vision 2020 objectives and regional strategic guidelines.

Article 14 : Reporting and Cooperation

1. The Member States and the ECOWAS Commission will cooperate to ensure implementation of this Supplementary Act, and any information obtained within the framework of its implementation shall be deemed confidential.

2. The ECOWAS Commission shall, at two-yearly intervals, submit a report to Council on the implementation of this Supplementary Act, with effect from the date of its entry into force.

3. The ECOWAS Commission shall establish cooperation relations with other international organisations with a view to ensuring implementation of this Supplementary Act.

Article 15 :Implementation of this Supplementary Act

1. Member States shall take all necessary legal and regulatory measures to ensure the effective implementation of this Supplementary Act;

2. Member States shall inform the ECOWAS Commission of the existence of all Acts pertaining to the implementation of this Supplementary Act.

Article 16 :Amendments

Any Member State may submit proposals for amendment to the ECOWAS Commission, in accordance with Article 90 of the ECOWAS Revised Treaty relating to the procedure for amendment and review.

Article 17 : Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Chairman of the ECOWAS Authority of Heads of State and Government.

2. It shall be published in the Official Journal of the Community within thirty (30) days from its date of signature by the Chairman of the ECOWAS Authority of Heads of State and Government.

3. This Supplementary Act is an annex to and forms an integral part of the ECOWAS Treaty.

Article 18 :Depository

This Supplementary Act shall be deposited with the ECOWAS Commission which will transmit certified true copies thereof to all the Member States and register it with the African Union (AU), the International Civil Aviation Organisation (ICAO) and all such other organisations as shall be designated by the Council of Ministers.

IN FAITH WHEREOF, WE, HEADS OF STATE AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES

HAVE SIGNED THIS SUPPLEMENTARY ACT

DONE AT ABUJA, THIS 18TH DAY OF JULY 2013

IN SINGLE ORIGINAL, IN THE FRENCH, ENGLISH AND PORTUGUESE LANGUAGES, ALL THREE VERSIONS BEING EQUALLY AUTHENTIC

H. E. Dr. Thomas Boni YAYI
President of the Republic of Benin

H. E. Blaise COMPAORE
President of Burkina Faso

H. E. José Maria PEREIRA NEVES
Prime Minister of Cape Verde

H. E. Alassane OUATTARA
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H. E. Elliott OHIN
Senior Minister of Foreign Affairs and Cooperation
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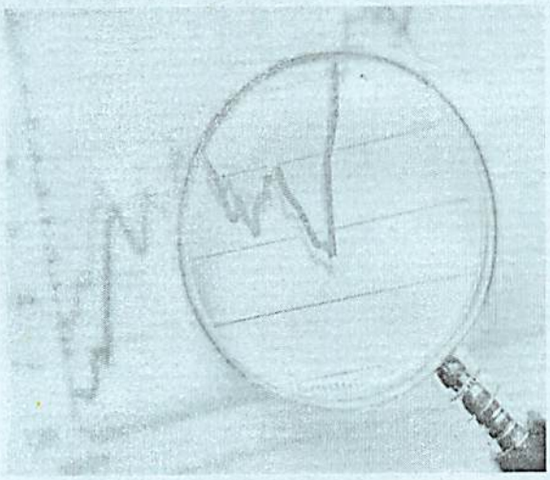
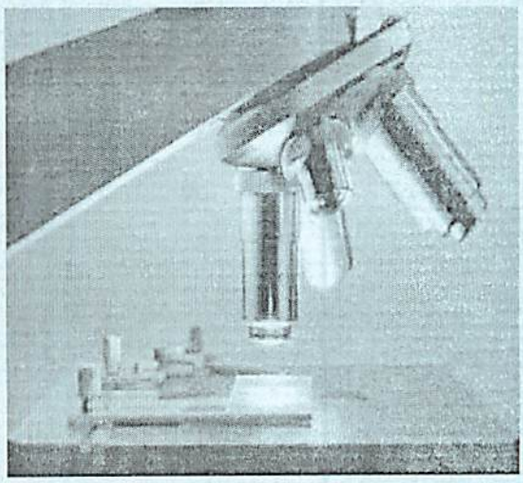
Original :French

ECOWAS REGIONAL RESEARCH POLICY





ECOWAS Commission
December, 2012

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Preamble

Given the fact that scientific research is a major development factor that contributes significantly to improving the living conditions of the people, the ECOWAS commission has initiated an inclusive and participatoryRegional Research Policy known as ECORP, in line with the ECOWAS vision 2020.

ECORP policy is the expression of ECOWAS commitment in accordance with its 1993 revised Treatyas well as its Vision 2020 to propose suitable solutions to issues related to research within the region. This ECOWAS initiative was designed, with the active participation of researchers, public and private partners as well as civil society. ECORP proposes an integrated strategy to address the challenges relating to the development of research in West Africa. Through this policy, ECOWAS commission intends to increase resources for research and strengthen collaboration among researchers and other development stakeholders.

The ECORP initiative is also intended to strengthen the capacity of Member States in the areaof research in order to reduce their dependency on foreign technical and financial assistance. The purpose is to strengthen scientific production by making it accessible to policy makers, private sector and civil society with a view to contributing to development and regional integration.

ECORP initiative seeks to address a number of challenges, including fostering collaboration between researchers and other development actors, buildcapacity of actors,ensuring institutional and financial resources of the research sector, as well as promoting the use and dissemination of research results.

The ECORP policy is a result of efforts and determination to accelerate growth, reduce poverty and enhance the development of the region. In this regard, it requires adequate human and financial support so as to promote quality scientific production, provide technical assistance, direct and improve decision-making. A joint effort on the part of governments of ECOWAS Member States, Inter-governmental Organizations of the region, technical and financial partners and other public and private partners is crucial for the success of this initiative.

This policy comes at a time when the region is facing many development challenges exacerbated by food, security, energy, financial and economic crises. It is thereforecalled for appropriate solutions to mitigate the negative consequences, consolidate the achievements made in recent years and to set-up better prospects for the region. Thus, ECORP is the ideal framework for all research stakeholders in West Africa, committed in the formulation and

implementation of research policies and programmes at both national and regional levels to assert the highly crucial role of research in the conduct of development policy.

To this end, ECORP is the general reference framework in terms of research for ECOWASand reflects the policy orientation that the community intends to provide to the research sector and the expressed willingness to move towards the West African scientific community. It is also the coordination framework of existing or emerging sectoral initiatives within ECOWAS to ensure consistency in its implementation. In this regard, ECORP is inclusive and does not neglect any discipline due to the multi-dimensional nature of the issues and challenges of the world and the region. The commission and the Member States also intend, through ECORP policy to achieve the objectives of promoting scientific research, strengthening of research, harmonizing national research policies at the community level, coordinating applied research programmes, promoting information sharing and collaboration among researchers in the region as stipulated by the ECOWAS revised treaty of July 1993.

The various stakeholders involved are convinced that with adequate support, the research sector would contribute to enriching discussion on integration and development in WestAfrica. This would be achieved by generating concrete and operational proposals based on home-grown brainstorming of development issues in the region.

The vision of this policy is in line with ECOWAS mission, in particular, the consolidation of the integration process, accelerating growth, poverty reduction, economic and social development and successful integration into the global economy. To this end, it is emphasized the need to promote synergy between all the stakeholders of the research sector in the ECOWAS region.

In this context, it is envisaged to make scientific research, a strategic tool that ensures high standards of quality in priority areas of development in order to respond to development challenges facing the region and to guide decisions making.

This Policy is therefore a concrete realization of a common decision to develop a culture of research within ECOWAS. It provides the principal directions of ECOWAS with regards to research sector.

1. Vision

By the year 2020, ECOWAS will benefit from an efficient and integrated space for research that promotesregional integration and sustainable development.

Under this general statement, by the year 2020, all ECOWAS stakeholders in the research sector will put in place:

- a permanent platform of exchanges among researchers with a focus on development issues of the region by proposing suitable solutionsto guide economic and social policy alternatives as well as modalities for the implementation of adopted strategies ;
- a framework for concerted action among researchers within the ECOWASregionon the one hand, andamongresearch institutions , Member States and ECOWAS commission, on the other;
- mechanisms for the promotion of research and researchers in Member States of the community through exchanges as well as financing of projects and programmes;
- a mechanism for the promotion and use of research findings through appropriate channels and strategies;
- aframework to improve scientific production within ECOWAS with a view to promoting research work based on relevant economic and social policy formulation for the development of Member States.

At the end of the process, ECORP will:

- promote mutual confidence and continuous dialogue between the society and the scientific community;
- promote West African research market and attractive expertise;
- enable ECOWAS address key research challenges through strategic partnerships involving the community, Member States and external partners;
- enable ECOWAS provide local solutions to development problems and increase its ability of anticipation.

2. Designation

ECOWAS regional research policy is designated by the acronym ECORP (ECOWAS Research Policy)

3. Objectives of the regional research policy

3.1. Overall objective

The overall objective of ECORP is to endow the West African region, with an efficient and integrated research sector likely to support and propel the sustainable development of the Member States and improve the well-being of the population.

3.2. Specific objectives

Specifically, ECORP will:

3.2.1. Clearly set out the terms of reference for research as a privileged instrument for national and regional development;

3.2.2. Define the organizational framework, the institutional support and sharing of responsibilities in research activities;

3.2.3. Create a conducive environment for the conduct of research and for the sustained development of competences;

3.2.4. Develop community scientific solidarity and strengthen scientific cohesion;

3.2.5. Ensure that the main national and regional legal provisions which underpin and drive research are in place and are complied with;

3.2.6. Allow research to contribute to the achievement of the objectives of the ECOWAS' vision 2020.

4. Guiding principles

The guiding principles of this policy are:

4.1.*Collaboration*: to promote a framework for collaboration between researchers and other development actors;

4.2. *Consistency*: to ensure the coherence of ECORP with national research policies and other existing regional policies;

4.3.*Awareness*: to ensure a common and accepted understanding of the importance of research by all partners;

4.4.*Appropriate strategy*: to ensure the relevance of strategies that can contribute effectively to achieving the vision 2020 of ECOWAS;

4.5.*Networking/synergy:* to promote increased relations and interaction among research actors;

4.6.*Developing the responsibility and accountability:* to set up an independent and efficient system of evaluation and implementation of mechanisms;

4.7.*Learning*: to use research to promote learning, enhancing knowledge and innovation for a positive change within ECOWAS;

4.8.*Subsidiary and comparative advantage*:build on the expertise of the various stakeholders for the successful implementation of the research policy.

5. Reference framework

5.1. This policy applies to all stages of research conducted by researchers within the ECOWAS region, particularly to activities on basic and applied research carried out in universities and research centres in the region;

5.2. Thispolicy concerns all research institutions within the ECOWAS Region.

6. General characteristics of the regionalresearch policy

6.1. Definition of concepts

6.1.1. Scientific research applies to actions taken to produce and develop knowledge. It refers to a rigorous methodological approach which enables an explicit solution to be found for a clearly identified problem and which contributes to the advancement of knowledge in this field;

6.1.2. Research can be basic or applied. It is basic when it focuses on increase in knowledge in one or several disciplines. It is applied if it refers generally to the use of theories, principles and knowledge to solve practical problems.

6.1.3. The researcher is a person who carries out research activities.

6.2. Research problems

Overall, research in West Africa has made progress in terms of trained human resources and institutions put in place. However, scientific

productions remain insufficient and often inappropriate to development issues and lagging behind other parts of the world.

The mainissuesthat the regional research policyaims at addressing are in the area of organisation, institutional administration and management of research activities.

6.2.1 Organisation of research

- four major challenges must be addressed in the area of research organization: lack of updatedlegal texts covering different specialized fields of scientific research and challenge of implementing existing measures;
- the non-existence of accreditation mechanisms for research units;
- the weak interactions between research institutions and other actors(government, civil society, the private sector, etc.), reflected in the relative isolation of researchers;
- the poor linkage between the research world, the market and social demand.

6.2.2. Institutional management of research

Institutional management faces the following major difficulties:

- the non-existence of a national research policy document reflecting in the difficulty ofevaluating progress and correcting any lapses identified to make national research efforts more effective;
- the fairly limited influence of research managementbodies causing weaknesses in the definition of priorities and coordination of research units;
- the limited budgetary allocation for research;
- overreliance of the regional research bodies on external funding.

6.2.3 *Management of research activities:*

The following major limitations continue to affect the management of research activities:

- poor working conditions of researchers in Member states ;
- shortage of research staff and the high turnover of body of researchers;
- inadequate support for young researchers ;
- lack of dissemination of research results;
- weak protection of intellectual property.

f) Establishment of regional research networks, a framework for consultation and exchanges among researchers;
g) Definition of a regional mechanism for the accreditation of research centres and institutions;
h) Establishment and strengthening of specialized regional research centres;
i) Establishment of a Regional research development plan (RRDP);
j) Preparation of regional multi-annual research programmes.

7.2. At the financial level

7.2.1. Encourage the member states to set aside 1% of their gross domestic product for financing national research in accordance with the 1980 Lagos declaration;

7.2.2. Create regional research assistance fund;

7.2.3 Put in place innovative mechanisms for financing research.

8. Stakeholders and sharing of responsibilities

8.1. Role of stakeholders

The main actors in the implementation of the regional research policy are the following national and regional entities:

8.1.1.*ECOWAS commission* will play the role of facilitator, guidance, stimulation, coordination, exercising control for the effective implementation of the guidelines adopted at the regional level;

8.1.2. *Member states* are involved in the definition and implementation of policies both at the national and regional levels. They set up coordinating bodies at national level (through the regional network) on issues and policy research;

8.1.3. *Research institutes (national and regional)*: they work to develop the field of research and will be consulted on the choice of regional and national policies that may have an impact in the area;

8.1.4. *Other regional organizations*: other organizations and institutions of regional integration will be consulted for an alignment of policies developed throughout the ECOWAS region;

8.1.5. *Private sector and civil society:* a strong involvement of the private sector and civil society in defining research priorities;

8.1.6. *The technical and financial partners*: they will assist ECOWAS and member states in the development, implementation and monitoring of regional and national research policies.

8.2. Implementation organizational structure

The organizational structure for the implementation of the ECORP provides for a strategic and policy guideline, synergy with national institutions, interdisciplinary relationships, sustainability, effective management, ownership by all stakeholders and a steering mechanism to ensure greater effectiveness in the implementation. It is built around:

8.2.1 Technical steering committee comprising research coordination bodies of member states and the ECOWAS commission

8.2.2. Thematic technical committees which comprise members in specific fields of scientific research.

9. Strategic thrusts

The various strategic thrusts of ECORP are as follow:

9.1. Thrust 1: improving the research environment

This thrust aims to promote research and researchers, and involves the following priority actions:

9.1.1. Development of institutional and legal framework for research;

9.1.2. Source of funding for research.

9.2. Thrust 2: capacity strengthening of human and institutional resources

For the second thrust, the following priority actions have been identified:

9.2.1. Training of stakeholders involved in research;

9.2.2. Enhance research institutions' access to information;

9.2.3. Creation of national and regional specialized centres for research;

9.2.4. Provision of equipment for research institutions;

9.3. Thrust 3: dissemination of research results

Under the third thrust, the following priority actions have been identified:

9.3.1. Development of mechanisms for publication of research,

9.3.2. Development of mechanisms for use and dissemination of research results;

9.3.3. Development of act for effective research.

9.4. Thrust 4: development of partnership

The partnership focuses on the relationship between researchers in the region on the one hand and between them and other stakeholders (research institutions, member states, diaspora, private sector and civil society and ECOWAs commission) on the other. Priority actions are:

9.4.1. Bringing together researchers within the region to exchange experiences, knowledge and best practices;

9.4.2. Strengthening collaboration between research institutions and other stakeholders

9.4.3. Strengthening strategic cooperation with stakeholders outside of ECOWAS.

10. Implementation of research policy

10.1. The implementation of regional research policy is a sustained endeavour. It will be based on the implementation of multi-annual research programmes according to a rolling programming.

10.2. Governance support method as a means of implementation under the coordination of the ECOWAS commission.

10.3. Update the regional research policy consistent with the evolution of ECOWAS' vision 2020 and the regional strategic orientations.

ANEXES

Annexe A

Actions Plan

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
IMPROVING THE RESEARCH ENVIRONMENT	**Development of the institutional and legal framework for research**	Develop and adopt legal texts establishing and operating structures implementing ECORP	X			ECOWAS Commission	National coordination structures of research	Operating legaltextsadopted	Operating legal texts adopted and available	List of ECOWAS decisions and regulations	Delay in the development and adoption of legal texts for operation
		Establish technical committee for steering and monitoring	X			ECOWAS Commission	National Coordinating Structures of research, private sector, civil society, Regional Intergovernmental Organizations (RIO)	Launch meetings held	Meeting summary	Progress reports of ECOWAS Directorate of Research and Statistics (DRS) Annual report of the ECOWAS Commission	Delays in the development and adoption legal texts for operation
		Implement the thematic committees of consultation and	X			ECOWAS Commission	National coordination structures of research, private	Creation meeting(s) held	Meeting(s) minutes	Progress reports of the DRS Annual report of	Delays in the development and adoption of legal texts

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
		monitoring of the research development					sector, civil society, RIO			the commission	operation Delay in the establishment of the Steering Committee
		Develop the communication plan on ECORP	X			Technical Steering committee	thematic consultationcommittee private sector and civil society	Communication plan designed	Document on communication plan available	ECOWAS/DRS Commission	Delay in setting up the implementation structures
		Inform and educate all the stakeholders on ECORP	X	X	X	ECOWAS Commission	Technical Steering Committee and Monitoring Thematiccommittees consultation	Stakeholders are informed and aware of ECORP	Progress reports of awareness and information, Number of leaflets and posters distributed, number of commercials	Progress reports of the DRS Annual report of the Commission	Lack of communication plan Inaccessibility of the target audience
		Develop and / or update national		X	X	Member States	Technical Steering Committee, Thematic committees	National research	Documents of national research	National Coordinating Structures of	Different priorities at States level

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
		research policies					consultation ECOWAS Commission	policies are developed and / or updated	policies are available	research Official Journal Web sites of the States governments	
		Write a framework document for improvement of working conditions of researchers at the regional level		X	X	ECOWAS Commission	Technical Steering Committee Thematic committees consultation Researchers	The framework document for improvement of working conditions of the researchers is written	Copy of the framework document available	DRS progress reports Annual report of the ECOWASCom mission	Difficulties related to the national specificities States' reluctance to upgrade the working conditions for researchers
		Back the States to adapt their texts to the scope of improving the working conditions			X	ECOWAS Commission	Technical Steering Committee Thematic committees	National texts are adapted according to the regional	Copy of the adapted texts available	National Coordinating Structures of research Official Journal	States' reluctance to upgrade the texts Absence of a

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
		of the researchers					consultation Member States	framework		Web sites of the States governments	regional framework for improving the working conditions of researchers
	Research funding	Develop plan for mobilizing financial resources for research	X	X		ECOWAS Commission	Technical Steering Committee Member States RIO, Private sector, Civil Society, Technical and Financial Partners (TFP), etc.	Terms of mobilization of financial resources for research are developed	Copy of mobilization plan of financial resources for research available	DRS progress reports Annual report of the ECOWAS Commission	Delays in the implementation of activities related to the developmen the mobilizati plan of financial resources Unsuitability of the Mobilization Plan developed

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
		Establish a competitive fund for research at the national level		X	X	Member States	Technical Steering Committee RIO Private sector Civil society TFP	The competitive fund is established	Legal texts of creating funds available Functional units of the fund management Bank account for the fund opened	National Coordinating Structures for Research Official Journal Websites of the state governments	Differentiated Prioritization at the state level Reluctance of states Lack of financial resources
		Implement regional fund to support research		X	X	ECOWAS Commission	Technical Steering Committee Member States RIO Private sector Civil society TFP	regional fund support is implemented	Decision / Regulation on the establishment of funds available Bank account for fundopened	Directory of decisions and regulations of ECOWAS Annual Report of the Commission	Differentiated prioritization programs and projects at the ECOWAS Commission Lack of financialresources
		Mobilize by the	X	X	X	MemberStates	Technical Steering Committee	Additional financial	Agreements / Financing	Finance Act	Reluctance of potential

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
		Mobilize by the Member States, additional financial resources for the research	X	X	X	MemberStates	Technical Steering Committee RIO Private sector Civil society TFP, ECOWAS Commission	Additional financial resources are mobilized by Member States to research	Agreements / Financing Agreements signed Legal texts of additional resources by the Member States	Finance Act National coordination structures for research Official Journal Websites of the Governments of the Member States	Reluctance of potential donors Technical Insufficiency of mobilization file Lack of financialre urces
		Mobilize by the region, additional financial resources for the research	X	X	X	Technical Steering Committee	Member States RIO Private sector Civil society TFP ECOWAS Commission	Additional financial resources are mobilized by the region for the research	Agreements / Conventions funding signed Fin	Financial reports of the Commission	Unwillingnes s of the potentialfinan cial sponsors Technical Insufficiency of mobilization

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
											file
		Advocate with Member States to actually devote at least 1% of their GDPto research		X	X	ECOWAS Commission	Technical Steering Committee RIO Private sector Civil society TFP States Researchers	Organized missions on advocacy	Mission reports available	Progress reports of the DRS Annual Report of the ECOWAS Commission	Inaccessibility of the target audience Reluctance of Member States
CAPACITIES STRENGTHENING OF HUMAN AND INSTITUTIONAL RESOURCES	**Training of those involved in research**	Strengthen the capacities of the members of structures implementing ECORP	X	X	X	ECOWAS Commission	Technical Steering Committee Technical consultation committees	The capacities of the structures and members implementing ECORP are reinforced	Number of training sessions. Reports of training activities	Reports of the DRS activities Annual Report of the ECOWAS Commission	Delay in setting up the structures for ECORP implementation
		Develop regional training programs (initial and ongoing) for	X	X	X	Technical Steering Committee	Technical consultation committees Research institutions	Regional training programs for researchers	Copy of programs available	Reports of activities of the DRS	Delay in setting up the structures for ECORP

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
		researchers					ECOWAS Commission	developed		Annual Report of the ECOWAS Commission	implementati on
		Strengthening the financing of national doctoral(PhD) training		X	X	Member States	ECOWAS Commission RIO, TFP Privatesector Civil society	Financing national doctoral training strengthened	Additionalamountgr anted	Financial Report of the doctoral training structures	Reluctance of States Lack of resources
		Strengthening the financing of regional doctoral (PhD) training		X	X	ECOWAS Commission	Member States RIO Private sector Civil society TFP Funding research institutions	Financing regional doctoral training strengthened	Additionalamountgr anted	Financial Report of the ECOWAS Commission	Lack of resources Reluctance of potential donors
	Research institutions'	Establish a collaborative		X	X	Technical Steering Committee	Member States RIO Private sector	Collaborative platformdevel	Collaborative platform available	Activity reports of the DRS	Lack of commitment

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
	access to information	platform for the exchange of information between stakeholders of the research					Civil society TFP ECOWAS Commission Research institutions	oped	for (exchange agreements, electronic medium)	Report of the ECOWAS Commission Internet	by all stakeholders Digital divide Delay in setting up the implementati on structures
		Subscribe research centres for scientific databases		X	X	Technical Steering Committee	Member States RIO Private sector Civil society TFP ECOWAS Commission Research institutions,	Research centres are subscribed to scientific databases	Number of subscription contracts to database	Progress reports of the research structures Activity reports of the DRS Internet	Lack of resources Insufficien or lack of adequate equipment
		Create a functional database of the region research (theses, articles,		X		Technical Steering Committees	Thematic consultation committeeECOWAS Commission Research institutions	Database of the region research work (theses,	Access linkavailable Relation usage available	Internet Activity reports of the DRS	Reluctance of research institutions to provide

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
		etc.).					Member States Private sector	articles, etc.). established and operational		Annual Report of the ECOWAS Commission	information Outage of digital data up to date
		Support researchers in gaining access to the information available in the ECOWAS area		X	X	ECOWAS Commission	Thematic committees consultation Research institutions Member States Private sector Civil society RIO	Researchers have access to information at the regional level	Number of interventions in favour of access to information at the regional level	Reports ofthe activities of DRS Intervention correspondence by the ECOWAS Commission	Evocation of confidentialit y, No free informati
	Creation of national and regional centres specialized in research	Inventory research structures of the ECOWAS area	X	X		Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States	Research structures of ECOWAS are inventoried	ECOWAS directory researchfacilitiesava ilable	ECOWAS Commission National coordination structures of research	Delay in setting up structures for implementati on

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
											Lack of involvement of research organizations Unavailability of some information
		Create specialized national research centres		X	X	Member States	ECOWAS Commission Research structures Thematic committees consultation RIO Private sector civil society	National specialized research centres are created	Creation of legal texts Physical address	National Coordinating Structures of Research	Lack of commitment of the Member States Lack of resources
		Create regional specialized centres		X	X	ECOWAS Commission	Member States Research structures Thematic committees	Specialized regional centres for research are	ECOWAS decisions and regulations	Directory of ECOWASdecisions and Regulations	Lack of resources

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
		for research					consultation RIO Private sector Civil society regional	created			
	Equipresearch institutions	Build sufficient and adequate infrastructures for research			X	Member States	Research structures RIO Private sector Civil society ECOWAS CommissionTFP	Adequate and sufficient infrastructure for research are built	Inventory of the infrastructure provided Number of the infrastructures built Geographical coordinates of the site built	National coordination structures for research institutions	Inaccessibilit y, Lack of resources Lack of enthusiasm the Member States

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
		Acquire appropriate and sufficient equipment for research			X	Member States	Research structures RIO Private sector Civil society ECOWAS Commission TFP	Adequate and sufficient equipment for research acquired	Inventory for equipment received Number of equipment acquired	Research institutions National coordination structures for research	Lack of resources Lack of enthusiasm from the States
DEVELOPMENT OF THE RESEARCH RESULTS	DEVELOPING MECHANISMS FOR PUBLICATION OF THE RESEARCH RESULTS	Conduct an inventory of existing support publication	X	X		Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States.	Inventory of publication media is performed	Directory of publishing media available	ECOWAS Commission National coordination structures of research	Delay in setting up structures for implementation Lack of enthusiasm by some interlocutors
		Strengthenexisting media publication		X	X	Technical Steering Committee	ECOWAS Commission Research structures	Existing publication supports are	Number of media publication reinforced	Research institutions	Delay in inventorying existing

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
							Thematic committees consultation Member States TFP	reinforced		Reports of DRS	publication supports Lack of resources
		Create media publication		X	X	Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States Private sector Civil society The TFP	Publication supports are created	Number of media publication created	Research Institutions Reports of the DRS	Low engagement of stakeholder Lack of resources Failure to publish work Poor quality of work
		Back researchers to publish researchwork in international media		X	X	Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States	Supports to publication in international media are granted	Number of support granted	Research Institutions Reports of the DRS	Virtually no workeligible

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
							Private sector Civil society The TFP				
	Develop mechanisms for enhancement and extension of the research results	Inventory structures and strategies (mechanisms, supports) for results enhancement	X			Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States	Structures and strategies (mechanisms, supports) for utilizing the results are tallied	Directory of structures and strategies development available	ECOWAS Commission / DRS	Delay in setting up structures for implementation Lack of enthusiasm by some interlocutors
		Strengthen national mechanisms for exploiting the results of research		X	X	Member states	ECOWAS Commission Research structures Thematic committees consultation Member States Private sector Civil society TFP	National mechanisms for promoting the results of research are reinforced	Number of valuation structures reinforced Number of new devices created	National coordination structures for research ECOWAS Commission	Differentiated prioritization at the Member States level

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
											Lack of research work in terms of quantity and quality
		Develop a regional strategy for promoting the results of research		X	X	Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States Private sector Civil society TFP	Regional strategy optimization of the results of the research is elaborated	Strategypaperavailable	ECOWAS Commission / DRS	National specificities Absence of directory of structures a strategies development
		Develop a strategy for the dissemination ofresearch results		X	X	Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States	Strategies for dissemination of research results are designed	Document on dissemination of research results available	ECOWAS Commission / DRS	Quantitative and qualitative inadequacy of search results

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
							Private sector Civil society TFP				
		Encourage the inclusion of the results of research in the development and actions policies		X	X	Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation National coordination of the research structures Private sector Civil society TFP	Actions encouraging the inclusion of research results in policy development are conducted	ECOWAS Commission / DRS Number of actions Carried out	ECOWAS Commission / DRS	Inaccessibility and reluctance of the target audience Inadequacy of researchres s
		Establish a mechanism for monitoring and evaluating research results at the region level			X	Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation National coordination structures of research	Mechanism for monitoring and evaluation of research results in the region is set up	Monitoring and Evaluation Document available	ECOWAS Commission / DRS	Quantitative and qualitative insufficiency of search results

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
	Development of ICT for research	Establish a digital platform for exchange between stakeholders in research		X	X	Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States RIO Private sector Civil society TFP	Digital platform for exchange between stakeholders is implemented	Usage frequency Access link Numberof users connected	Internet ECOWAS Commission / DRS	Lack of motivation of the stakeholders Weakness of the connexion Weakcapacity of users
		Enhance access to internet of the research centres		X	X	Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States RIO Private sector Civil society TFP	the research centres'access to the Internet is strengthened	Number of internet access granted Number of broadband awarded	Reports of Research Institutions ECOWAS Commission / DRS	Lack of internet coverage Weak technical capacity of the users

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
PARTNERSHIP DEVELOPMENT	**Bring together the researchers in the region tofacilitate exchange of experiences, knowledge and best practices**	Inventory research programs and projects existing in the region	X	X		Technical Steering Committee	ECOWAS Commission Research structures Thematic committees consultation Member States RIO Private sector Civil society TFP	Programs and existing research projects in the area are inventoried	Directory of programs and projects existing in the region	ECOWAS Commission / DRS	Lack of enthusiasm by some interlocutors Inaccessibility to information
		Establishregionalre search programs	X	X	X	Technical Steering Committee	ECOWAS Commission National coordination structures research Thematic committees consultation Research institutions TFP RIO Private sector	Regional research programs are developed	Number of regional programs available	ECOWAS Commission / DRS	Delay in setting up the implementation structures Weak technical capacity Lack of

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
							Civil society				financial resources
		Inventory of existing research networks in the region	X	X		Technical Steering Committee	ECOWAS Commission National coordination structures of research The thematic committees consultation	The inventory of network research is performed	Directory research networks in the region available	ECOWAS Commission / DRS	Delay in setting up the implementati on structures Lack of enthusiasm by some interlocutor
		Develop and adopt the legal texts of the creation and operation of the research network of ECOWAS (ECORN)	X	X		Technical Steering Committee	ECOWAS Commission National coordination structures of research Research Institutions	Legal texts of theoperating system adopted	Legal texts of theoperating system adopted available	List of ECOWAS decisions and regulations	Delay in adoption of ECORP legal texts
		Implement the research network of ECOWAS		X		Technical Steering Committee	ECOWAS Commission Research structures	Launch Meeting held	Meeting Summary	Reports of activities of the DRS	Delays in the development and adoption

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
		(ECORN)					Thematic committees consultation Member States RIO Private sector Civil society TFP			Annual Report of the Commission	of legal texts operation
		Inventory of researchers in the region	X	X		Technical Steering Committee	ECOWAS Commission National coordination structures of research Thematic committees consultation	Directory of researchers in the region is created	Directory researchersavailable	ECOWAS Commission / DRS	Unavailabilit y of information Lack of enthusiasm o researchers

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
		Promoteteaching and researchassignments		X	X	Technical Steering Committee	ECOWAS Commission National coordination structures of research Thematic committees consultation	Missions of teaching and research are organized	Number of missions organized Number of beneficiaries of research missions	Progress Reports of teaching and research structures	Insufficient human and financial resources Differentiated staffingbetween States
		Promote the co-training of the students		X	X	Technical Steering Committee	ECOWAS Commission National coordination structures of research Thematic committees consultation TFP RIO Private sector Civil society	Co-supervisions of the students research work are organized	Number of students' work co-supervised	Reports on activities of the teaching and research institutions	Lack ofhuman and financial resources Differentiated staffingbetween States
		Develop an inventory of best	X	X	X	Technical Steering Committee	ECOWAS Commission	Directory of best practices	Directory of best practices available	ECOWAS Commission /	Unavailability of required

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
		practices					National coordination structures research Thematic committees consultation Research institutions TFP RIO Private sector Civil society	is developed		DRS	information
		Promote best practices		X	X	Technical Steering Committee	ECOWAS Commission National coordination structures of research Thematic committees consultation Research institutions TFP RIO Private sector Civil society	Actions to promote best practices are carried out	Number of actions conducted Number of targets sensitized	Research institutions ECOWAS Commission / DRS	Low adhesion of the stakeholders Unavailability of the compendium of good practices

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
	Strengthening collaboration between research institutions and other stakeholders	Conduct a study on the perception of research by other stakeholders		X	X	Technical Steering Committee	ECOWAS Commission National coordination structures of research Thematic committees consultation Research institutions TFP RIO Private sector Civil society	The study on the perception of research by other stakeholders is conducted	Study report available	ECOWAS Commission / DRS National coordination structures	Low adhesion of the stakeholders Lack of resources
		Establish a platform for exchange between researchers and other stakeholders		X	X	Technical Steering Committee	ECOWAS Commission National coordination structures research Thematic committees consultation Research institutions PTFP RIO	Platform for exchange between researchers and other stakeholders is established	Collaboration platform available Number of exchange agreements Number of partnership	Reports of activities of the DRS Report of the ECOWAS Commission Research institutions	Lack of commitment from all stakeholders Delay in setting up the implementati on structures

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
							Private sector Civil society		Number of meetings sessions		
		Promote a regional market for research			X	Technical Steering Committee	ECOWAS Commission National coordination structures of research Thematic committees consultation Research institutions TFP RIO Private sector Civil society	The regional market for research exists	Number of results from research given to the public Number of requests of research results satisfied Number of patents submitted	Research Institutions National coordination structures of research	Quantitative and qualitative inadequacy of research results Reluctance of potential users of research results Obstacles to the free movement of knowledge and expertise

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
	Strengthening strategic cooperation with stakeholders outside ECOWAS	Ensure participation of researchers in international scientific meetings	X	X	X	Member States	ECOWAS Commission National coordination structures of research Technical Steering Committee Thematic committees consultation Research institutions TFP RIO Private sector Civil society	The participation of researchers in international scientific meetings ensured	Number of participants in international scientific meetings Number of participations in international scientific meetings	Research Institutions National coordination structures of research	Low technical capacity of researchers Lack of resources
		Support researchers in the region to access information available throughout the world		X	X	Technical Steering Committee	ECOWAS Commission National coordination structures of research Thematic committees	Researchers in the region have access to information globally available	Number of interventions in favour of access to global information	Research institutions Activity reports of the DRS Correspondences intervention by	Evocation of confidentiality, No free information

Strategiclines	Priority actions	Activities	Year 1	Year 2	Year 3	In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
							consultation Research institutions TFP RIO Private sector Civil society			the ECOWAS Commission	
		Strengthen partnership with other stakeholders in the South		X	X	Technical Steering Committee	ECOWAS Commission National coordination structures of research Thematic committees consultation Research institutions TFP RIO Private sector Civil society	Strengthened partnership with the other stakeholders in the South	Number of partnership agreements signed	Research institutions National coordination structures ECOWAS Commission	Low enthusiasm and lack of interest of the target interlocutors Lack of resources
		Enhance the transfer of knowledge and technology towards		X	X	Technical Steering Committee	ECOWAS Commission National coordination	The transfer of knowledge and technology	Number of agreements of transfer signed	Research Institutions National	Low enthusiasm and lack of interest of the

Strategiclines	Priority actions	Activities	Year			In charge	Other stakeholders	Expected results	Indicators	Sources of verification	Risks/ constraints
			1	2	3						
		the region					structures research Thematic committees consultation Research institutions TFP RIO Private sector Civil society	towards the region enhanced		coordination structures ECOWAS Commission	target interlocutors Lack of resources
		Develop a regional research agenda (create environment for exchange with partners)		X	X	Technical Steering Committee	ECOWAS Commission National coordination structures of research Thematic committees consultation Research institutions TFP RIO Private sector Civil society	Regional Research Agenda developed	Document with regional agenda available	ECOWAS Commission National coordination structures Research institutions	Differentiated prioritizati of the stat Inability to defend the agenda Lack of resources

A n e x e B :

Research sector in West Africa :
Diagnosis, challenges and perspectives

Introduction

1. Researchand development (R &D) is increasingly becoming one of the main levers of economic growth and sustainable development. As a means of production of knowledge and information, it includes creative work undertaken systematically to increase the stock of knowledge, including knowledge of man, culture and society and the use of this stock of knowledge for new applications .There are three main components of research and development[1]:

   - Basic research which consists of experimental or theoretical work undertaken primarily to acquire new knowledge about the underlying causes of phenomena and observable facts, without any particular application or use.
   - Applied research is original investigation undertaken to acquire new knowledge. It is directed mainly towards a specified practical aim or objective.
   - Experimental development is systematic work drawing on existing knowledge gained from research and/or practical experience with a view to producing new materials, products or devices, establishing new processes, systems and services, or improving substantially those already in existence.

2. The key role of research and development is to contribute to decision-making, strategy formulation and development policy.

3. However, to produce knowledge and apply the results derived from it, the research must necessarily be underpinned by an appropriate institutional framework, quality human resources and sufficient financial resources.

[1]OECD, Manuel by Frascati, 2002 edition, p. 87-89)

Introduction

1. Researchand development (R &D) is increasingly becoming one of the main levers of economic growth and sustainable development. As a means of production of knowledge and information, it includes creative work undertaken systematically to increase the stock of knowledge, including knowledge of man, culture and society and the use of this stock of knowledge for new applications .There are three main components of research and development[1]:

   - Basic research which consists of experimental or theoretical work undertaken primarily to acquire new knowledge about the underlying causes of phenomena and observable facts, without any particular application or use.
   - Applied research is original investigation undertaken to acquire new knowledge. It is directed mainly towards a specified practical aim or objective.
   - Experimental development is systematic work drawing on existing knowledge gained from research and/or practical experience with a view to producing new materials, products or devices, establishing new processes, systems and services, or improving substantially those already in existence.

2. The key role of research and development is to contribute to decision-making, strategy formulation and development policy.

3. However, to produce knowledge and apply the results derived from it, the research must necessarily be underpinned by an appropriate institutional framework, quality human resources and sufficient financial resources. The institutional framework includes for example, National Research Institutes, Public and Private Universities, national laws and regulations, grant programs and other measures to support research, funding rules, protection of intellectual property rights and partnership between universities, research institutes and productive sector.

4. Despite the recognized role of research as a driving force behind any development process, Africa is lagging far behind in terms of participation in knowledge production and innovation in the world. The contribution of Africa to the

[1] OECD, Manuel by Frascati, 2002 edition, p. 87-89)

promotion of research worldwide is relatively low. Between 2000 and 2004, Africa produced only 1.8% of research publications in the world while India produced 2.4% and Latin America recorded 3.5%. However, there are disparities among countries of this continent in terms of contribution to global research. Most research in Africa is concentrated only in two African countries, namely South Africa and Egypt, accounting for a little over 50% of the publications of the continent (Kizza et al, 2010). In terms of invention and innovation, Africa lags far behind. The continent accounts for not even a thousand inventions, and 88% of them are credited to South Africa (Pouris, 2009).These figures highlight the limited contribution of research in Africa in general, and the sub-Saharan region in particular.

5. It is the awareness of this fact that led the Authorities of ECOWAS to engage actively in the definition of a regional policy on research capable of providing all the expected contributions of research and development to the implementation of Vision 2020. This regional research policy is also to highlight the region's orientation towards research and development so as to substantially provide its own quota to scientific and technical production in the world.

6. The definition of a policy on quality research must be based on a thorough analysis of the economic and political context in which it will be implemented. Consequently, an overview of research in West Africa is a prerequisite for drawing up the definition of a policy that is capable of meeting new development challenges in the region. The diagnostic analysis should provide answers to a series of questions:

   - Is there an institutional framework for defining national research policies that address the concerns of ECOWAS member states?
   - What are the common characteristics and differences in national research policies?
   - What are the priority areas of research and who are the actors in such research work within the region? How are research activities financed in countries of the ECOWAS region?
   - Does research have an impact on decision-making?
   - How are research findings valued?
   - What are the challenges that a regional research should address in West Africa? What should be the major

characteristics of a regional research policy that fits in the 2020 vision?

7. This report aims to provide an answer to each question. It is based on national reports on the current state of research in the 15 ECOWAS member countries as well as other sources of information. The report is structured as follows; Section 1 examines national research and innovation policies,Sections 2 and 3 respectively analyze the organization and research areas in the countries of the region, while Section 4 deals with human resource. Sections 5 and 6 address infrastructural and financial resource issues respectively. Finally, the links between research and decision-making, performance of the research sector and the challenges are reviewed in Sections 7, 8 and 9 respectively.

I. National Policy on Research in the ECOWAS Region

1.1. Legal Framework

8. This section is designed to review the various legal and institutional frameworks governing research activity in ECOWAS memberstates and to locate experiments that have led to conclusive research and innovation in the sub region.

9. In General, the ECOWAS member countries have a legal framework governing the sector of scientific research. First research strategies initiated prior to 1960 were essentially directed to the agricultural sector for purposes of supply of the colonizing countries raw materials industries. For instance, in Côte d'Ivoire, research activities were conducted between 1893 and 1971 in French law institutions and related agronomic research. In Nigeria, applied research in Agronomy predominated during the 1920s with the creation of an Institute for agricultural research to Moor Plantation, Ibadan, Umudike, Umuahia, Samaru and Zaria. This implied policy research in Nigeria was developed strategically by the British to supply their industries in agricultural products such as cocoa, palm oil, peanuts and cotton. Similarly, Sierra Leone has also experienced research activities in the agricultural field with the creation in 1912 of an agricultural research centre in the South of the country engaged in research in the oil palm and the training of technicians and agricultural agents. In 1934, a decree on the creation of an agricultural research station known as the Rokupr Agricultural Research Center was established by the Department of Agriculture as an experiment on the rice sector.

10. From the 1960s, countries have defined new directions for research including the adoption of the texts establishing bodies of management and governing the organization of the sector of research.

11. Between 1960 and 2000, most of the countries have created and/or revised legislation governing the operation of the research and innovation sector of (see table 1 in the annex).

12. In this regard, the new provisions are mainly centered on the creation of departments dedicated to research, national research councils, Centers and Research Institutions etc.

13. As regards specific national research policies, most of the countries have made attempts at adopting a research policy in the process of their development but have not been able to produce or maintain one.

1.2. Institutional Framework

14. Research activity in countries of the ECOWAS region is run by government Ministries, Universities and Research Institutes or Centres. There are two types of institutional management of research activities divided mainly along Francophone and Anglophone lines among the ECOWAS countries.. Vertical structuring is widely found in the francophone countries, with a Ministry in charge of research or specially dedicated to this sector whichcoordinates research activities with the national Council of scientific research, universities and Centres of research. In Benin for example, research is structured around the National Office of Scientific and Technical research which is the central body for scientific advice and the sectorial scientific committees at universities and offers research directions to universities. The scientific and technological research in Côte d'Ivoire is managed by the Ministry of higher education and scientific research through the General Directorate of research and Technological Innovation (DGRIST).

15. The second type of institutional organization is horizontal, mainly occurring in Anglophone countries in which research is organized and coordinated by area of study without the existence of centralized supervision. This is the case of Ghana where the Central Cocoa Research Station of the Gold Coast Department of Agriculture (now Cocoa Research Institute of Ghana)managed cocoa research in Ghana and then became the supranational institution for research on cocoa in West Africa

(the West African Cocoa Research Institute ;WACRI)The Ghanaian public universities on the other hand are mandated to conduct relevant research relating to the development needs of the country. Moreover, The Ghana commission of energy research handles all issues from peace to the use of nuclear power and atomic energy. It coordinates and promotes research on the secure applications of nuclear energy, science-technology and sectors in biotechnology such as agriculture, energy, the environment and peace. In Nigeria, there is a Ministry of science and technology which coordinates research in specific disciplines such asagriculture, socio-economics, space and Atomic Energy, medical research, and academic research.

1.3. Success Stories ofNational Policies for Research and Innovation in the West African Region

16. There are success stories in the region in terms of research and innovation in various areas such as agriculture, environment and education. It is presented below for illustrative purposes; three cases in the areas of agriculture, environment and education.

17. In the field of agriculture, the center of rice for Africa or Africa Rice (formerly WARDA), consists of 24 African countries and its role is to provide advice to researchers and policy makers of themember States on the main issues of production and rice commercialization. It has achieved significant results in increasing the quantity and improving the quality of the rice produced in the region. Africa Rice works closely with its national partners across the continent through a group mechanism of action based on extensive research themes specific to rice. Beyond national programs, research activities for the development of the center are conducted in collaboration with universities, advanced research institutions, farmers' organizations, non- governmental organizations and donors for the benefit of African farmers and consumers. It also conducts research with national research systems (NARS) in many other African countries and collaborates with many research institutes around the world such as the centre for International Cooperation in Agronomic Research for Development (ICARD), the Research Institute for Development (RID), the Japan International Research Center for Agricultural Sciences (JIRCAS) and several universities in developed countries. Africa Rice has since 2008 put a specialized unit in place that provides training, information management and dissemination of research results.

18. In the field of education and training, the interuniversity postgraduate program (IPP) can be considered as a successful regional experience.

19. This program aims to train high profile Economists in Francophone Africa who are capable of thinking to find solutions to the problems of their respective countries and the Community through inter-university collaboration, support to the Faculties and the introduction of a training program at thepostgraduate level. This program which covers 18 Francophone countries in Africa has between 1994 and December 2006, trained over 1,000 students who are holders of MasterDegree and 100 holders of PhD in Economics. Out of a sample of 10 % of trained students, 34.1% are employed in Research and Teaching sectors (30.1 %), general administration (28.8 %), and the private sector (6.9 %).

20. In the **area of environment**, good experiences were acquired by some ECOWAS member countries through the Permanent Inter-State Committee on Drought Control in the Sahel (CILSS). This Committee which brings together nine countries including four coastal nations (Gambia, Guinea-Bissau, Mauritania, Senegal), four landlocked States (Burkina Faso, Mali, Niger and Chad) and an Island State (Cape Verde), has put a lot into the ECOWAS region in terms of policies relating to national strategies for food security, action plans for the control of desertification, as well as national strategies for domestic energy. CILSS has also made intervention in training at engineer technicians levels (in agro-meteorology, crop protection and applied computer science), the implementation of Masters Programs in Joint Management of Natural Resources, adaptation of agriculture to climate change and sustainable crop protection. CILSS also put a lot into continuing education in the areas of food security, information systems, natural resource management and the training at the National ECOWAS Offices on the establishment of agricultural information systems and crop pest control.

II. Research Organisation

21. This section deals with research organizations. It focuses on actors, research facilities and their interrelationship. First, it discusses the distribution of institutions according to their national, regional and international status. Then, the status of these institutions is addressed before finally tackling the typology and relationship between research actors.

2.1. TypologyofResearch Institutions

22. A table of research facilities within ECOWAS has been drawn up based on country reports. The list is not exhaustive Nigeria for instancewith its huge number of its institutions, only provided data on three categories of institutions (Table 2.1). Nevertheless, the institutions included in the sample enable us to have a clear understanding of the number of research facilities in the various countries and the distribution according to their national, regional and international status.

23. The distribution of research institutions in the region shows that those with national status are numerically predominant. The Scientific and Technical Research facilities can be divided into three distinct categories: national, regional and international institutions. At the national level, the list includes University Research facilities (laboratories), National Research Institutes under the purview of Ministries of Higher Education and private Research Centres. On the other hand, regional institutions are intergovernmental organizations with supranational status. International institutions are international organizations that conduct research activities at national level. Table 2.1 shows the typology of research institutions by country (national, regional and international). The national institutions are in the majority. They represent on average, close to two-thirds of research facilities in the region. There are more affiliations with international institutions than regional institutions. These international institutions includeIFPRI (agriculture), IDRC (research &development), Pasteur Institute (health), CIARD (agriculture)and IRD (research and development).Regional facilities are limited in number within the region. These include mainly Africa Rice (formerly WARDA), CORAF and CODESRIA.

Table 2.1: Typology of Research Institutions (National, Regional and International)

Country	National Institutions	Regional Institutions	International Institutions
Benin	CBRST, CREDESA, ISBA, ISRP, LNST, Research Facilities of Universityof Abomey-Calavi and University ofParakou, INRAB, CENATEL, OBRGM, MMEH, ABE, MEPN, IDEE, REDAD, CIEVRA	Africa Rice (formerly WARDA), SONGHAÏ Centre	IITA, IRD, IPGRI, CIRAD,
Burkina Faso	CNRST, IRSS, INSS, INERA, Research FacilitiesofUniversities, CAPES, RGC-B, CNLP, MURAZ, CEDRES, CGD, CERBA	2IE (Institute of Water Engineering and Environment), Africa Rice (formerly WARDA), CORAF, INSAH	CIRDES, CIRAD, IRD, ICRISAT, IITA, CYMMIT, IRRI,

Cape Verde	75.1%	6.3%	18.8%
Côte d'Ivoire	LANADA, LANEMA, INSP, IPR, SODEMI, Quality Control Laboratoryfor private and semi-public Company, Anti-pollution Centre of Côte d'Ivoire, I2T, BNETD, facilities under the supervision of the Ministry of Higher Education and Scientific Research (21 UFR, 41 Departments, 85 Laboratories, 10 ResearchCentres, LBTP, CIRES, CNRA (13 Experimental Stations, 2 Central Laboratories), HEVEGO (Hevea Company inGô ; 1 Biochemistry Laboratory)	International Centre for Improvement of Maize and Wheat, Africa Rice (formerly WARDA), International Institute of Tropical Agriculture (IITA), IPR (Pierre Richet Institute), depends on OCCGE	CSRS, CIRAD, IRD, CIRBA, RETRO-CI BLOHORN, COSMIVOIRE, IPCI (Pasteur Institute), TROPENBOS
Gambia	60%	20%	20%
Ghana	83%	17%	
Guinea Bissau	46 Research Institutes variously under the supervision of Ministries of Higher Education, Agriculture, Cattle-rearing, Industry, Mines, Health and Public Health and Aquaculture, CEARL/FDB, CIPA		
Guinea	52 Public Research Institutions		
Liberia	73%	6.60%	20%
Mali	In Mali, the University plays the leading rolein research (University of Bamako = five Faculties, one Centre and three Schools (ENI, EN Sup, IPR), plus the Graduate Institute of Management (IUG), Higher Institute of Training and Applied Research(ISFRA), Rural Polytechnic Institute (IPR); Institute of Rural Economy (with 6 (six) Centres), INRSP, CNTS, LNS, CNAM, CREDOS, INERGG, ANSSA, CRLD, MandéBukari University Centre, ESTM	CODESRIA	In terms of research, the central role is played in Mali by the Instituteof Research for Development (IRD
Niger	(10/12)83% (CERMES, CNES, INRAN, Institute of Research in Mathematics, IRI, IRSH	1/128.33%	1/128.33% (ICRISAT, IRD, AGRHYMET)
Nigeria	85%	14.60%	
Senegal	National Agency for Applied Scientific Research, National Academy of Science and Technology (ANST), CREA (CENTRE FORECONOMIC RESEARCH), CREDILA (Research Centre for the Study ofDocumentation), TPS, SPIE, CNRA, Senegal Institute of Agricultural Research(ISRA), Institute of FoodTechnology (ITA), Research Facilities of Universities and University Centres, Research Centre of ESP, National Institute of Pedology, Centre for Ecological Monitoring (CSE),National Institute of Study and Action forEducation Development (INEADE)	CORAF, CODESRIA, Africa rice (former WARDA)	IFPRI, CRDI, IRD,Pasteur Institute, CIRAD
Sierra Leone	88%	5%	7%

Togo	National Council of Scientific Research Technical Committee of Scientific Research Direction of Scientific Research Universities and their laboratories Togolese Institution of Agricultural Research (ITRA) International Center for the Fertility of grounds (IFDC) International company of Linguistics (SIL) Center of Construction and Housing Centre (CCL) National Institute of scientific research (INRS) OPAT	ADRAO	AUF, OIF, CRDI, GTZ, OMS, RABAOC, SAFFICC, FAO, FARA, FIDA, UNESCO, Coopérationfrançaise , AFNETA, IFS, WAFMEN, RRPRC, WECAMEN, ROCARS, AVPELF Les Fondations, les académies et certains ONG (FIS, TWAS etc.)

Sources: Author used country reports on the status of research, 2010.

24. On the whole, there are severalinternational research institutions in Francophone countries.In Côte d'Ivoire, as a result of the focus on exportof commodities after independence, several research facilities specialized in the field of Agriculture and Industry with support from external partners. In view of its colonial heritage (former capital of AOF),Senegalbenefitted from installations of scientific research put in place before independence by foreign organizations, especially French organizations.

2.2. Status of NationalResearchInstitutions

25. Research institutions can be contrasted according to their status: public and private structures.

26. The classificationof the institutions according this criteria shows, on average, a greater representation of the publicsector in National Research Institutions in the region. The public facilities include research centres attached to universities, research institutes under the supervision of the Ministry of Higher Education and Scientific Research, research units and research groups. The private facilities for their part are mostly composed of autonomous research centresor institutes and research facilities for privateuniversities.Analysis of Table 2.3shows that at the national level, there are many public research centres.On the average, they amount to more than two-thirds of research institutions. However, there is a marked disparityamong the Anglophone countries. In Ghana over 91 %

of national research institutions are public, as against 47 % and50 %, for Nigeria and the Gambiarespectively (Graph 2.3).

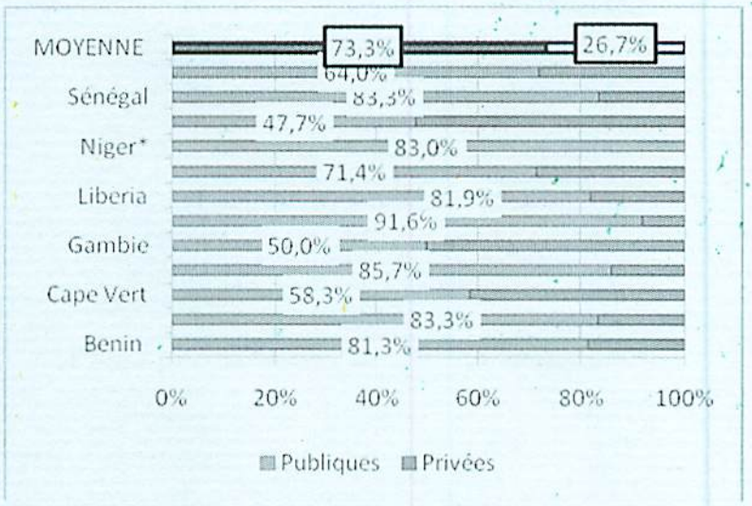
Table 2.2 :Statutory Distribution of National Research Facilities (ECOWAS)

Country	National Institutions	
	Public	Private
Benin	CBRST, CREDESA, ISBA, ISRP, LNST, ResearchFacilities of University of Abomey-Calavi and University of Parakou, INRAB, CENATEL, OBRGM, MMEH, ABE, MEPN	IDEE, REDAD, CIEVRA
Burkina Faso	CNRST, IRSS, INSS, INERA, ResearchFacilities of Universities, CAPES, RGC-B, CNLP, MURAZ, CEDRES	CGD, CERBA
Cape Verde	58.3%	41.7%
Côte d'Ivoire	LANADA, LANEMA, INSP, IPR, SODEMI, Quality Control Laboratoryof privates and semi-public of private CompaniesAnti-pollution Centre of Côte d'Ivoire, I2T, BNETD, Facilities under the supervision ofthe Ministry of Higher Education andScientific Research (21 UFR, 41 Departments, 85 Laboratories, 10 Research Centres), LBTP, CIRES	CNRA (13 Experimental Stations, 2 Central Laboratories), HEVEGO (Hevea Company in Gô ; 1 Biochemistry Laboratory)
Nigeria	47.0%	52.3%
Senegal	National Agency forApplied Scientific Research, National Academyof Science and Technology (ANST), CREA (CENTRE FORECONOMIC RESEARCH), CREDILA (Centre for Research into the Studyof Documentation), TPS, SPIE, CNRA, AgriculturalResearch Institute of Senegal (Isra), Institute of FoodTechnology (Ita), Research Facilities of Universities andUniversity Centres, Research Centresof ESP, National Institute of Pedology, Centre for Ecological Monitoring (CSE), National Institute of Study and Action for Development of Education (INEADE)	SODEFITEX, GroupStudy and Research into Analysis of Decisions (GERAD), Consortium of Economic and Social Research (CRES)
Mali	In Mali, the University plays a leading role in research (Universityof Bamako, one Centre andthreeSchools (ENI, EN Sup, IPR), plus the Graduate Institute of	MandéBukariUniversityCentre, and ESTM

	Management (IUG), Higher Institute of Training andApplied Research(ISFRA), Rural Polytechnic Institute (IPR); Institute of Rural Economy (with 6 (six) Centres), INRSP, CNTS, LNS, CNAM, CREDOS, INERGG, ANSSA, CRLD,	
Gambia	50%	50.0%
Ghana	91%	8.4%
GuineaBissau	46 Research Institutes under the supervision of various Ministries of Higher Education, Agriculture, Cattle-rearing, Industry, Mines, Health and Public Health and Aquaculture	
Guinea	52 PublicResearch Institutions	....
Liberia	81.9 %	18.1%
Niger*	(10/12; 83%) (CERMES, CNES, INRAN, Institute of Research in Mathematics, IRI, IRSH	...
Sierra Leone	64.5%	25.5%
Togo	57 public of research institutions of which 83 % among which: National Council of Scientific Research Technical Committee of Scientific Research Direction of Scientific Research Universities and their laboratories Togolese Institution of Agricultural Research (ITRA) International Center for the Fertility of grounds (IFDC) International company of Linguistics (SIL) Center of Construction and Housing Centre (CCL) National Institute of scientific research (INRS) OPAT	12%

Sources: Author used country reports (country survey on statusof institutions)
N/A= information not available

Graph 2.1: Classification ofInstitutions (Public versus Non Public)



Note: *In the case of Niger, PublicInstitutions are distinguished from InternationalInstitutions. No informationwas providedon the weight of national privateinstitutions.
Sources: Author used the country report of the countries on the status of research, 2010

2.3. Level of Decentralizationof Research within the ECOWAS Region

27. Within the countries of the region, most research institutions are concentrated in the capitals or in a few big cities. For example in Senegal, the majority of the research facilities recorded are based in Dakar, as a matter of fact, at UCAD (Cheikh Anta Diop University)which has over 153 research facilities[2] . In Nigerthe research institutions are concentrated in Niamey,in particular atAbdouMoumouniUniversity(AMU),which has over half of these institutions[3]. This is an indication of the lackof decentralization of research.

2.4. Research Actors

28. The actors involved in research within the ECOWAS region are many and varied and are related to each other by co-operation and partnership.

[2]ECOWAS, country-report Senegal
[3] They are the 12 institutions where the survey was conductedon research for this report (ECOWAS, 2010)

2.4.1. Categories of ActorsinResearch

29. . 2. The inventory in the research sector performed in the different countries of ECOWASunearthed three categories of stakeholders. The first category is composed of organs and research structures of a public nature. The second category is the local private sector. The third category consists of technical and financial partners who provide support to the States in the scientific production and dissemination of research results.

30. The public stakeholders include:

- National Scientific and Technological Research Centres (NSTRCs) which include several Research Centres or Institutes.
- Public universities.
- State Research Facilities not attached to NSTRCs or Universities.

31. The technical and financial partners are mostly represented by:

- Sub-regional and regional public institutions
- International publicinstitutions
- Internationalprivateinstitutions(religious or not)
- Finally the local private sector is mainly represented by non-state research structures (universities, private centers, NGOs, etc.).

32. Research in the universities remain the most important and is led by:Professors, Senior Lecturers, Lecturers, Teaching Assistants, Research Directors, Research Fellows, Research Assistants, and Engineers. This is actually a system of actors empowered to conduct research and administer research facilities.

2.4.2. Co-operation and Mobility of Research Actors

There is an emergence ofpartnership dynamics in the areas of co-operation and mobility ofresearchers in the ECOWAS region. Examplesarethe collaborative research programs at Africa Rice, scholarship programs for intra-UEMOA mobility and training support and training support provided by ETSHER. However, these relationships are less successful in producing research at regional level because they are fraught with challenges. . Among others, there are administrative barriers that restrict the mobility of researchers and students, the lack of harmonization of tuition and differential treatments

in terms of social services. This does not encourage contacts between young researchers and joint reflections on issues of common interestand therefore there is the need to introduce some systematic arrangement into such relationships.The main expectations cover both the field of training, access to information beyond national borders and implementation of regional activities.

III.Areas of Research

33. This section reviews the relationship between theoretical and applied research, the main areas of research and the priority themes within the ECOWAS region.

3.1. Relationship between Basic Research and Applied Research

34. Applied research is very often given priority at the expense of basic research by both national and international research organizations in the region.Basicresearch consistsof experimental and theoretical work undertaken to primarily acquire new knowledge about the underlying causes of phenomena and observable facts, without thinking of any particular application or use. Consequently, there is no specificeconomic purpose at the time of carrying out research work, regardless of the discipline. Applied research consists of original investigation undertaken to acquire new knowledge but is especially geared towards a specific practical aim. However, the boundary between these two types of research is not always easy to establish. It is indeed common that research undertaken as part of an application can have fundamental implications.Nevertheless, it is interesting to investigate whether in a country or at community level, research undertaken by the various institutions has a basic or applied orientation. Analysis of Table 3.1 indicates that most of the national and international research facilities are active in applied research.For example, 65% of the national research institutions are involved in applied research. With regard to international facilities, only 18% are involved in theoretical research; which means that almost all the international institutions develop research themes and areas of focus geared towards applied research. This is the case with IRD and CIARD. It must also be noted that national research facilities involved in theoretical research (82%) on one hand, and

applied research (64%) on the other hand, are more than international research facilities (Table3.1).

Table 3.1: Distribution of Facilities between Theoretical Research and Applied Research in the ECOWAS region.

Country	NationalFacilities		InternationalFacilities	
	TheoreticalResearch	Applied Research	TheoreticalResearch	Applied Research
Benin	CENALA,	CBRST, CREDESA, ISBA, ISRP, LNST, INRAB, CENATEL, OBRGM, ABE, REDAD,		CIEVRA, IITA, IRD, IPGRI, ADRAO, CIRAD, SONGHAF
Burkina	INSS, ISSP, IPERMIC, CAPES, IBAM	CAPES, CNLP, CRSN, MURAZ Centre, CIRDES, INERA, IRSS	CGD, IRD	CIRAD, IRD, 2IE, CERBA, CIRDES, OOAS
Cape Verde	IPC, ISCJS,INGRH, INB	INIDA, INDP, INMG, INE, NOSI	M_EIA,	
Côte d'Ivoire	BNETD	CNRA, HEVEGO, LANADA, LANEMA, BNETD	Pasteur Institute	CSRS, CIRAD, IRD, CIRBA, CEDRES
Gambia	UGCRC, ANWACA	CIAM, NARI, MRC, NANA, NAS, UGCRC		ITC
Ghana	CHS, CEPA, GIMPA, IDEG, IEA, ISODEC, IWMI, BIR, GCDD, CEGENSA, CMS, CSPS, ILGS, ICAMD, NCMS	KNUST, CeCASt, CERGIS, IIR, INSTI, CHS, PGRRI, SARI, TCC, WRI, FRI, FORIG, SRI, ISODEC, BRRI, CRI, GSHRDC, KCCR, ISSER, NMIMR, GAEC, IDS, IAR, CTCPT, TA, OPRI	IAS	UNU-INRA, WACCI, CAW, IFPRI, ASDN
Guinea-Bissau	INEP, CEARL/FDB	INEP, INITA, INPA, CIPA, INASA		
Mali	CREDOS, CAM, INA, ILAB	ANSSA, CNAM, CNRST, CNTS, CRLD, IER, INERGG, INRSP, CRES, CNESOLER	Cercap	IRD, Afristat, BCEAO
Niger	IRSH, LASDEL, IRM	IRI, INRAN, CNES, CERMES		IRD, AGRHYMET, ICRISAT
Senegal	CLAD, CREDILA, IDHP, IREP, IE, IAC, GERCOP, GERM, GESTES, GERSEG, GERAD, CRES	CERER, IPDSR, ITNA, LANI, CIERVAL, GIRARDEL, LERSTAD, ITA, INP, CEREEQ, INEADE, CRES	AROA-WARC, CODESRIA, Pasteur Foundation	AROA-WARC, IFRI, CORAF, Africa Rice, Pasteur Foundation, PROMETRA, MANOBI, LOCUSTOX, IRD, IFPRI,

				CIRAD, CRDI

Sources: Author used country reports on status of research, 2010.

3.2. Main Research Areas

36. **Countries in the ECOWAS region give priority to practically the same research areas**. There are three areas of research: exact sciences, socialsciences and humanities. The exact sciences include physical sciences, mathematics and computer science, chemical science, medicine, agronomy and the environment. Analysis of Table A2 shows that mathematics/computer science and medicine recorded a higher percentage. Areas such as agronomy and environment are also increasingly at the core of research activities in most countries of the region,particularly in the Sahelian countriesas in the case of Senegal and Mali. With regard to social sciences and humanities, economics seems to be a priority, particularly with studies on poverty and international migration (Table A3in annex).

3.3. Research Themes Considered as Priorities by National, Regional and International Research Institutions

37. Climatic differences (Sahelian zone versus forest area) do not sufficiently influence the choice of priority themes for research in countries of the ECOWAS region.In the research activities of international institutions, agricultural and environmental issues are a priority both in the Sahelian and forest countries. This is particularly the case with IRDand CIARD, for instance, which are interested in the rural sector, human resource management and the environment. On the other hand, public health and economics are a great concern ofthe national and regional institutions both in Sahelianand forest countries. The latter strongly support international institutions in their missions (Table A4in annex).

3.4.Support Mechanisms for Innovation

38. Innovation is generated by research and is generally the exploitation of new ideas in order to develop production methods or products and services themselves and the existing tools and methods as well. It is therefore distinct from invention which is a new creation.

39. Innovation is important particularly in terms of technology development, accelerating economic growth, improved health, quality of life and well-being of individuals and human enrichment and cultural society (SNRI, 2009). It is for this reason that ECOWAS States have set up mechanisms to back innovation; however, they remain primarily oriented towards agricultural research. These innovations include the development of counseling services, changing methods and the settlement of research organizations and associations in the systems.In a relatedstudy, the cases of Benin, Burkina Faso, Ghana, Mali and Senegal have been identified (Mouton 2005).

40. These mechanisms are designed to strengthen the farmers' capacities and to empower them to better manage their activities and promote innovation within their enterprises.

41. For example, the mechanisms presented by Burkina Faso and Ghanaat the Conference on Agricultural Innovation in Dryland Africa (AIDA) held in Accra- Ghana from 22nd to 24th January, 2007, represent an innovative and successful experience. It involves the improvement of a traditional technique, known as*zaï*through to the use of a specific mechanization that involves the entire local community in the process.

IV. Human Resource

42. This section provides an overview of the human resource in the research sector in the countries of the region, focusing on the body of professors-researchers.

4.1. Number of Students in the ECOWAS Region

43. In spite of the rapid increase in the number of students, enrolments at the tertiary level are relatively low in the ECOWAS countries.Universities, Research Institutes or Centers are the two key entities that constitute the national research system of a country. Academic research is conducted by Faculty members and PhD students in accordance with on-going research programsunder the guidance of scientific advisory bodies. Despite the rise in the number of students, tertiary education in the ECOWAS region is relatively one of the least developed in the world.Table 4.1 provides the numbers of students for ten countries of ECOWAS in 2008, data from all countries are not available. It is clear from this information that students typically represent less than 1% of the whole population of the country, against nearly 11% for Western Europe. The distribution of students shows that there are still some significant disparities between countries and

between males and females. Beyond the overall numbers, there were undoubtedly differences between countries in the region in 2008 due to a differentiated staffing in terms of university infrastructures for training and research. Hence the need for a regional pooling of certain infrastructures, programs and research projects.

44. In addition, although significant efforts have been made in terms of girls'education, gender disparities are still pronounced at the higher educational level.With the exception of Cape Verde (where 56 % of university students were female), girls accounted for less than 35 % of student enrolments in each of the 10 countries of the Communityin 2008 (Table 4.1). This result shows that parity is far from being achieved at the tertiary level within the Community.

Table 4.1 : Student Enrolments for ECOWAS Countries, 2008.

	Numberof students	
Country	Total	% Female
Côte d'Ivoire	157,000 [b]	33 [b]
Ghana	140,000 [b]	34 [b]
Senegal	91,000	35
Guinea	80,000	24
Guinea-Bissau	N/A	N/A
Liberia	N/A	N/A
Mali	77,000 [c]	29 [c]
Burkina Faso	48,000 [c]	32 [c]
Benin	43,000 [a]	N/A
Togo	33,000 [b]	N/A
Niger	16,000 [c]	29 [c]
Nigeria	N/A	N/A
Sierra Leone	N/A	N/A
Gambia	N/A	N/A
Cape Verde	6,700	56

Average	69,170	

Notes:[a] = dataof2006;[b] = dataof2007;[c] = dataof 2009 andN/A = data notavailable
Source: Global Digest, Unesco, 2010

45. The ECOWAS region is lagging far behind the rest of the world in terms of student enrolments per 100,000 inhabitants.The numberof students per 100,000 inhabitants is an indicator for measuring student intake in tertiary facilities. Data inTable 4.2show that in 2005 only 4 countries out of 10 exceeded the threshold of 500 students per 100,000 inhabitants. These include Nigeria (1,024), Senegal (698), Benin (622) and Côte d'Ivoire (604) against 3,500 in France and 6,000 in USA for example.

Table 4.2: Numberof Students per 100,000 Inhabitants for ECOWAS Countries, 2005.

Country	Number of Students per 100,000 Inhabitants
Nigeria	1,024
Benin	790 [a *]
Senegal	698 [a]
Côte d'Ivoire	604
Togo	372
Ghana	330
Guinea	280
Mali	278
Burkina Faso	240
Niger	80
Average	**470**

Notes:[a] = data of2007; * = estimation
Sources : RESEN Benin, 2008; CRES/ME/DPRE, REF du PDEF, 2007.

46. An increasing number of students leave the region for studies in foreign Universities.Even though the number of students pursuing higher studies in African Universities has increased appreciably, it must be admitted that the higher the studies they are pursuing at the Graduate or Post-Graduate level, the higher the chances to finish successfully abroad and obtain the certificate there. Given the fact that some courses do not exist

in the sub-region and there is the need for them to pursue further studies, students from the region (whether on scholarship or not), increasingly pursue their courses abroad, particularly in Europe and North America (USA, Canada).In 2008, UNESCO recorded 75,878 international students originating from countries of the Community, including 15% and 33% students from Senegal and Nigeria respectively. Close to 20% of this number registered in schools in the USA and 31% in France (Table 4.3).

Table 4.3 : Number of ECOWAS Students StudyingAbroad, 2008.

Country	Number of international students
Benin	3,521
Burkina Faso	2,487
CapeVerde	4,848[a]
Côte d'Ivoire	5,639
Gambia	968
Ghana	7,201
Guinea	4,376
Guinea-Bissau	653[a]
Liberia	621
Mali	3,094
Niger	2,094*
Nigeria	24,953
Senegal	11,684
Sierra Leone	714
Togo	3,025
Total	**75,878**
% France	**31**
% United States of America	**18**

Notes:[a] = for the year 2007; * = estimation of ISU.
Source:UNESCO, Global Digest, 2010.

4.2. Number of Researchers in the ECOWAS Region

47The number of Researchers (FTE) per one Million inhabitants is far below the universal standard.Table 4.7below shows that in 2007, the number of Researchers (FTE) per 1 Million inhabitants was estimated at 370in Senegal (2008)as against66in Côte d'Ivoire (2005), which is considered to be very weakcompared to the figures recorded in other countries worldwide. For the purpose of comparison, the number of Researchers (FTE) per 1 Million inhabitants is 382 in South Africa, 942 in Botswana and 1,588 in Tunisia. These figures show that a lot of efforts remain to be made by African countries south of the Sahara to achieve the universalstandard which is 2,000 Researchers per 1 Million inhabitants.

Table 4.4:Number of Researchers (FTE)* per 1 Million inhabitants in 8ECOWAS Countries, 2007.

Country	Year	Number of Researchers (FTE) per 1 Million inhabitants
Burkina Faso	2010	46
Côte d'Ivoire	2005	66
Ghana	2007	17
Mali	2006	42
Niger	2005	8
Nigeria	2007	38
Senegal	2008	370
Togo	2007	34

Source:Data Bank of the Institute of Statistics of UNESCO.N/A: data Notavailable

4.3. Main Characteristics of Population of Researchers

47. The net number of Researchers who are Lecturers is insufficient in all the countries of the region.After examining the status and level of qualification of Faculty members, it is observed that the number of Researcherswho occupy the position of lecturer (Professors and Senior Lecturers) is low in the countries of the region. In Niger, out of the 291 Faculty members, 59, i.e. 20% occupy the position of lecturer as against 232 for the other levels,amounting to 80%. In Burkina-Faso, out of 602 Researchers, 35% are in the senior grade as against 65% for the other categories.Similarly in Mali, out of

the 700 Faculty members,about 30%occupy the position of lecturer as against 70% for the other categories.The same trend is observed in Senegaland Benin where the proportion of teachers occupying the position of lecturer is 31 % and 19 % as against 69 % and 81 % for the others,respectively. These figures are relatively low compared to some countries like Morocco where the number of teachersoccupying the position of lecturer is 1511.

Table 4.5 : Distribution of Researchers According to Status, Level of Qualification and Sex, 2009 of ECOWAS countries

Country	Position as Lecturer *		Others **	
	Total	% Women	Total	% Women
Senegal	443	N/A	971	N/A
Burkina Faso	208[a]	N/A	394[a]	N/A
Benin	178	10	753	11
Niger	59	N/A	232	N/A
Mali	210	N/A	490	N/A

Notes: * = Professors and Senior Lecturers; ** = Lecturers, Teaching Assistants and others in charge of research;[a] = dataof2010;N/A = data notavailable
Source:Country Report on drawing up regional policy and strategyon research in the ECOWAS Region, 2011.

48. There is an insignificant number of female researchers in the subregion, with very few of them in senior positions.In Burkina Fasofor example, female personnel have very low representation at all levels with 10.6 % of staff of Researchers, 24 % of Research Assistants, 17 % ofResearch Engineers and finally, 8 % of Research Technicians. In Benin, out of the 178 Researchers occupying the position of lecturer, only10% are women (Table 4.5).

4.4. Incentive Package for Researchers

49. Research in the countries of ECOWAS isconstrained by considerablydifficult working conditions. Apart from the logistical (Office, equipment, documentation etc.) challenges, wages are inadequate and are inconsistent with the status and the rank of the players in the sector.

50. In recent times however, there have been increased efforts in the upward adjustment of the salaries and working conditions of actors in the research sector in some member states, in particular Benin, Senegal and Mali.

51.It should be noted that the persistent constraints faced by researchers negatively affect research in the subregion. In this regard, some researchers rather than concentrating on teaching activities in their universities set up complementary courses or paid vacation courses in private structures. In addition researchers prefer to engage in consultancies rather than undertake research that can enhance their academic success. There is also large scale exodus of researchers and teachers in some universities in the subregion to other sectors which are more lucrative.

4.5. Effects of brain drain

51. The mass departure of researchers from the region to areas such as Europe, North America and the emerging markets in search of better living and working conditions is a major concern for the ECOWAS region. According to the International Organization for Migration (IOM), 40% of African countries have 35% or more of their graduates residing abroad. Figures on the African brain drain reveal that many African countries have more than 40% of their highly trained workforce outside their country. Whereas statistics on the phenomenon are lacking in Francophone countries. Available information on Cape Verde and some Anglophone countries paint a dire picture.Le Monde (2010) reports that 67%, 63% and 53%respectively of higher educated citizens of Cape Verde, the Gambia and Sierra Leone live outside of their countries.The key host countries of these researchers are the United Kingdom, the United States of America, Canada, Australia and France.

52. While there is general consensus on the fact that one of the main assets of Africa is its human resource, the issue of brain drain is a major drawback on the subregion's efforts at development.

V. Infrastructure

53. Research incountries in the ECOWAS is often hampered by problems of equipment and logistics. The national survey findings revealed thatbetween 33% and 53% of research institutions have operate their headquarters from their own premises. Among the five countries where some researchers operate from rented premises, Sierra Leone has the highest of 56%, followed by Niger with 50%. With regards to researchers who's headquarters is domiciled in state properties, Burkina Faso ranks highest with56.5% followed by Côte d'Ivoire with

53.3%; the Gambia has the least of 10%.Research facilities are under-equipped, and access to scientific and technical information is lacking.Inadequate equipment to carry out research is mainly due to low budgetary allocations for research.

Table 5.1: Features of buildings housing the headquarters of research institutions of the countries within ECOWAS

Countries	Properties ofthe institutions	Rented premises	State Properties	Others
Burkina Faso	39.13%	0%	56.52%	4.34%
Côte d'Ivoire	33.33%	0 %	53.33%	13.33%
The Gambia	40%	20%	10%	n.a
Ghana	51.2%	9.3 %	32.6 %	2.3%
Liberia	53.33%	6.67%	33.33%	6.67%
Niger	33.33%	50%	16.66%	0%
Sierra Leone	33%	56%	11%	n.a

Source :National Report, 2010. Note:n.a = not available

VI. Financial resources

54. This section describes the sources of research funding. It also focuses on the importance of the resources allocated to the sector of research and the contribution of the various partners in research funding.

6.1. Sources of funding andtheir typology

55. There are three main sources of finance for research budget within ECOWAS countries.The funding policy consists of mobilizing both public and private resources to support research. These are necessary for the implementation of research programmes, improvement of social conditions of research staff and their working conditions (premises, equipment, etc.). There three main sources of research funding in ECOWAS are:

- National public grants: They are the budgetary allocations and all other national public resources allocated to research.
- Self-financing: These are resources generated by institutions themselves.
- Foreign support: They come from bilateral and multilateral cooperation or from specialized organizations (IDRC, CIDA, CODESRIA etc.).

6.2. The research share of GDP

56Funding remains a major concern for national research systems in most of the countries of ECOWAS; the share of national wealth devoted to research is very low. The Lagos Plan recommends that countries raise the level of research funding to 1% of GDP.The Plan also recommends the establishment of a regional mechanism for sustainable support for research.

57Available information on some ECOWAS countries expenditure on research and development shows that less than 0.4% of GDP is spent on research (Table 6.1).

Table 6.1: Share of domestic expenditure on research and development (R&D) in theGDP of some ECOWAS member-countries.

Countries	Expenditure	Year
Burkina	0.21	2009
Gambia	0.02	2009
Ghana	0.23	2007
Mali	0.25	2007
Nigeria	0.22	2007
Senegal	0.37	2008

Sources:UNESCO, Institute of Statistics (web site: stats.uis.unesco.org)

56. Generally, Sub-Saharan Africa contributes 0.5% to global spending in research and development. The research budget is on average 0.3% of GDP (UNESCO UIS), a percentage well below the 1% target set by the Lagos Plan of Action (OAU, 1985: 71). In addition to the fact that resources from States' budgets for research are woefully inadequate, they also serve largely to cover operating expenses such as salaries, current transfers, maintenance, electricity, water and telephone and do not go directly into the financing of research. In Senegal for instance, about two thirds of the budget allocated to Higher Education also covers operating expenses while the share of investment remains very low.

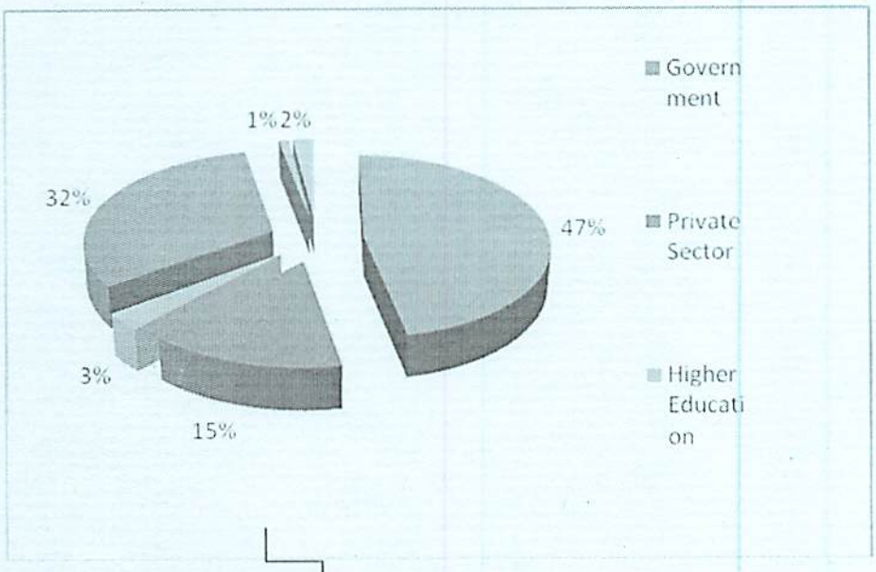
6.3. The contribution of the various actors in research funding

57. Research funding is largely provided by the State and foreign donors. Donors who provide funding for research within the ECOWAS region fall into five categories. They include the State, companies, private non-profit institutions of higher education and other unspecified financial partners. However,

the States and foreign partners remain the largest providers of funds for research and development in the region.Out of the five countries shown, the average trends indicate that nearly half of spending on research and development come from the State (47%). External funding is second, with a contribution of nearly a third (32%) of expenditure on research and development (Figure 6.1).The lowest contribution to research and development is from private non-profit institutions. They contribute little to research funding (1%). Although their support is way below that of the State and foreign partners, companies provide substantial support to the research sector. Their participation is five times greater (3%) than the self-generated resources of the universities.To the extent that funding is a driving force for research in the countries of the region, it is essential that all stakeholders get involved to attain that purpose.

Picture6.1 : Expenditure on research and development according

to source of funding (average of five ECOWAScountries)



Source: UNESCOInstitute ofStatistics (web site: stats.uis.unesco.org).

6.4. The participation of foreign partners in funding research

58. The contribution of technical and financial partners inresearch funding is relatively important.A breakdownof domestic spending for research and developmentshows that on averagemore than 31% of funds allocated for research and developmentinthe five member countriesof ECOWAS (Table 6.2)arefrom foreign sources. This share nevertheless hides a deep disparity between countriessuch as Burkina Faso, Ghana and Nigeria where 59.6%, 11, 9% and 1% respectively of research funds are sourced from foreign donors.The available information on the financing of the research also highlight the weakness of the participation of the private sector, which coupled with the inadequacy of public holdings is a major constraint to the development of the research in West Africa.

Table 6.2:Domestic spending onresearch and Developmentaccording to thesource of funds (in %) in someECOWAS countries, 2007-2009

Year	2008	2007	2007	2007	2009	
Countries	Senegal	Mali	Nigeria	Ghana	Burkina-Faso	Average

Companies	4	10.1	0.16	50.9	11.9	15.4
States	57.1	40.9	96.36	36.5	9.1	47.9
Higher Education	0.3	0	0.08	0.7	12.2	2.65
Private non profit-making institutions	0.3	0	1.73	0	1.3	0.66
Foreigndonors	38.3	49	1.04	11.9	59.6	31.97
Not specified	0.1	0	0.64	0	5.9	1.33

Source :UNESCO Institute ofStatistics (Web site: www.stats.uis.unes)

VII. Performance

59. One of the major indicators of a scientific research system is the quantity and quality of publications in various journals bothand international.

60. Almost all of the universities and research centresin the countries of ECOWAS have periodic reviews. However, overall the amount of publications is small in relation to the rest of the world. In addition, much of this work are unfortunately not taken into account in the international scientificdatabases as the PASCAL produced by the Institute of scientific and technical information in France and the Web of Science database produced by Thomson in the USA.

61. This situation is also observed in Nigeria; despite the fact that it has the largest number of universities in sub-Saharan Africa[4] , its contribution in terms of publications in relation to the rest of the world is marginal.For example, in 1995, Nigeriahad a production of 711 scientific publications against 3414 for South Africa, 14883 for India and 5440 for Brazil (Adu, 2003).

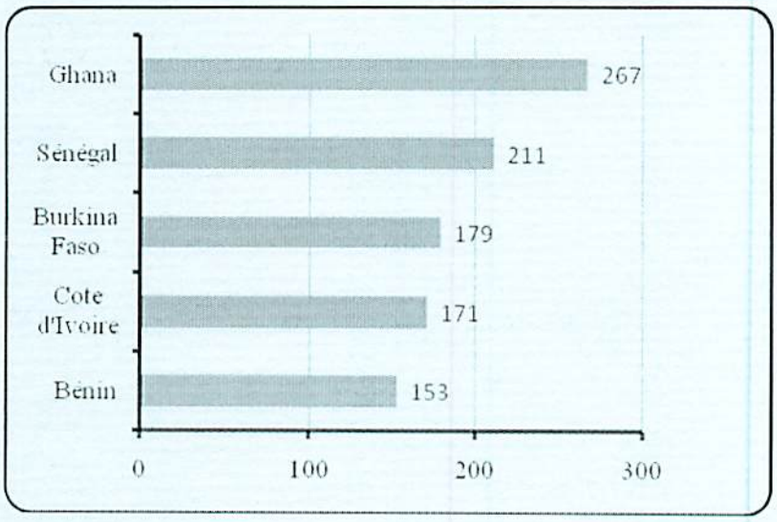
62. More generally, chart 8.1 gives an overview of the number of scientific papers listed in the major international databases. It indicates that the scientific production of Ghana which is the highest in all of the five ECOWAS countries for which data are available was 267 articles in 2007. It constitutes only 2.40% of the publications of sub-Saharan Africa and 0.10% of the United States for the same period.Ghana

[4]Nigeria has the largest number of universities and research centers in Sub-Saharan Africa with more of 26 federal universities, 20 State universities and about ten private universities; and of numerous research centers.

65 is followed by Senegal with 211 scientific publications in spite of the fact that it has the oldest Universityin francophone West Africa.

66 The quality of the publications is also of major concern. In Nigeria, surveys done in 2003 on 138 journals published in Nigerian universities shows that only 2.8% were consistent with international[4] standards. This situation does not seem to be different in other ECOWAS countries.[5]

Graph8.1 : Number of scientific newsletters published in international journals for five ECOWAS countries, 2007.



Source: UNESCO science report, 2010.

67 Even though the local production of scientific publications is low, many scientists publish in international journals. It should be noted that the volume of these publications is also low. For example, in the field of medical sciences, MEDLINE/PubMed baseline review indicates that between 1996 and 2007, Nigerian researchers made about 7030 publications. 31% of these publications were done by Nigerian magazines and 10% in the African Journal of Medical Sciences[6] Only 17 articles have been published in

[5]Adu,F. I. (2003): ChallengesofUniversityManagementin Contemporary Nigeria.An acceptance speech at the "Best Vice-Chancellor of the Year 2002" award ceremony at Abuja,Nigeria

[4]Ebele J. Egwunyenga (2008)Dystrophies and Associated Crises in Research and Academic Publications in Nigerian Universities , Anthropologist , 10(4) : 245-250 ; National Universities Commission: Quality Assurance of Publicationsof Nigerian Academics -NUC (2005):How do Nigerian Local Journals Measure with Regard to International Standards?".MondayMemo, Vol. 4 No. 24, June 13.

British Medical Journal (BMJ), Journal of the American Medical Association (JAMA) and Ingeneral, most of the research was original and dealt with relevant issues.

68 Centres of research as Malaria Research and Training Center (MRTC) of the Faculty of Medicine of the University of Bamako is in this respect a world reference centrewith work published in the best journals of Parasitology. These researches are being upgraded with the vaccine test (AMA1[8]) which gives cause for some hope in malaria treatment.

VIII. Linkages between research anddecision making

69 One of the essential objectives of the research is to inform and influence the decision-making process both in the public and private domain. Analysis of the link between research and decision making relies on the study of stakeholders, including the relationship between the different categories of users and researchers.

8.1 The users of research results

70 Potential users of research are generally classified into three broad categories:

-The public sector, through public authorities who are in need of research for the formulation and evaluation of policies;
-The private sectorwho requires research to improve the allocation of scarce resources in order to increase profit.
-Thecivil society, for the best forms of research intervention and timely targets for their interventions in the social field or professional categories they represent.

71 It should be noted that the role of the technical and financial partners who bring their support to these three actors mentioned above also influence the research orientation.

8.2.Relations between the various categories of users and researchers

72 Despite the weakness of the public resources allocated to research, advances have been obtained by the sector in terms of value and use of the results of the research. The

73 The link between the results of research and decision making highlight various situations within the countries of ECOWAS.

74 In countries like Ghana and Nigeria, the vertical structuring of research has often supported the link between research and decision making.

75 At the country-level French speaking countries in the subregion demonstrate a much more horizontal relationship between research and decision making, where the results of research are dedicated to specific sectors for decision making. This is particularly true in agriculture where there are research centers dedicated to specific crops such as coffee, cocoa, groundnuts and cotton. This has enabled the development of these crops at the expense of food crops which have a weak support from the research sector. In general, dialogue exists between research and research users.However, it is the absence of a framework of coherent dialogue and adequate structures that limit the appropriation and transfer of research results (Coly, 2008).

76 For this reason, some countries are now trying to improve this link through more formal frameworks. For example, Burkina Faso and Mali have two functional mechanisms of results of research which are the Forum of scientific and technological innovation (FRSIT) research and the National Agency of Valorization of results of research (ANVAR). But so far their impact remain very limited due to the lack of means for monitoring and thelack of a comprehensive policy on results of research with tools and the appropriate response mechanisms.

77 The experience of the countries of ECOWAS shows also that the link between research and decision making is still low with respect to the social and human sciences. Centres of research in this area are rarely attached to Governments to use their results. Most of the research are not disseminated and valued and are therefore relatively unknown to the decision makers.

78 This situation implies that the key decisions in the social field are not influenced by the results of research carried out from the region. For instance, in the field of economics, a large part of the decisions are influenced by Breton Wood institutions and not research by the research centres of the

79 Another constraint on the link between research and decision making is the inadequacy of the media coverage of the results of research in relation to the needsof policy makers.

8.3.Major challenges

80 On the basis of the diagnosis of the research sector, the major challenges faced by stakeholders of research are:

- The lack of clearly defined national policies for science and technological research in relation to a well-designed regional policy
- The lack of developed synergies among researchers and between research structures of the ministries and the Universities and/or training and research institutions.
- Lack of secure sustainable financing and institutionalized research activities
- The inability to define the status of the researcher and design for him a clearly-outlinedroadmap for career development that is consistent withnational research needs
- The inability to involve the private sector in scientific research by developing active partnerships
- The inability to promote research and development by upgrading and extending the results of research and the lack of involvement of local populations, through the production of patents and prototypes to strengthen human resources both from the point of view of quality and quantity.

General conclusion

81 The objective of this report is to make a diagnosis of the research sector in the community. It is clear from this diagnosis that there is the lack of explicit research policy in most of the countries of the region, a centralization of most of the structures of research in national capitals and a lack of synergy between the different actors of research. There is also lack of human and financial resources as well asobsolete equipment. In addition, applied research is often preferred over research into fundamental issuesboth at the national and international level. Even if there is a diversity of areas, the most privileged are usually medicine, agronomic sciences and economic sciences. Another aspect that emerges from this report is the brain drain in the sector as well asthe poor performance of the research sector.

82 This diagnosis is hoped will help in developing a solid and adequate regional research and innovation policywhich is in line with the objectives attached to the ECOWAS Vision 2020. Indeed, a legal framework for the ECOWAS community which will govern the research sector in the community should be able:

-To develop legislation which will provide a frame of reference and guidance for research activities;
-Toenhance cooperation at different levels of research, better coordination of existing national research policies
- To strengthen human, financial and material structures of research and networking of research teams;
- To enhance the performance of the research sector and the dissemination and use of research results.

Annex B.1: Dates in which ECOWAS members formulated legislations governing research and innovation

Dates for the adoption of laws and regulations governing research	Benin	Burkina Faso	Cape-Verde	Cote d'Ivoire	Gambia	Ghana	Guinea	Guinea-Bissau	Liberia	Mali	Niger	Nigeria	Senegal	Sierra Leone	Togo	Total
1960-1970						x										1
1971- 1980	X			X							x					3
1981-1990	X											x			x	2
1991-2000		X	X			x										4
2001-2010	X		X					X		x	x			x		6

Annex B. 2 : Main discipline for research in the exact sciences per country within the ECOWAS region.

Fields	Countries	Disciplines
Mathematics and computing	Cote d'Ivoire	Algebra ; Cryptology ; Algebraic Geometry and Applications ; Differential Geometry and Applications ; Networks, Services and Telecommunications ; Applied Mathematics; Coding ; Probability-Statistics ; Analysis
	Ghana	Algebra, Cryptology, Geometry, Differential Geometry, Statistics, Networks, Services and Telecommunications, Applied Mathematics, Probability, Statistics, Analysis, computer graphics.
	Mali	Algebra, Algebraic Geometry and Applications Differential Geometry and Applications, Networks, Telecommunications, Applied Mathematics, Probability, Statistics, Numerical Analysis.

	Nigeria	Algebra, Cryptology, Algebraic Geometry and Applications, Differential Geometry and Applications, Networks, Services and Telecommunications, Applied Mathematics, Probability, Statistics, Analysis, Gravitation, Civil Aviation.
	Senegal	Algebra, Cryptology, Algebraic Geometry and Applications, Differential Geometry and Applications, Networks, Services and Telecommunications, Applied Mathematics, Coding, Probability-Statistics, Analysis, Statistics. Programming.
Physics	**Cote d'Ivoire**	General mechanics, theoretical physics, calorimetry, electromagnetic.
	Ghana	Atomic and Nuclear Energy, Natural and Artificial Radiation; Plasma Physics, Theoretical Physics.
	Mali	General Physics, Applied Physics, Molecular Physics, Theoretical Physics.

Annex B. 2 : **Main discipline for research in the exact sciences per country within the ECOWAS region.**

Fields	Countries	Disciplines
Mathematics and computing	Cote d'Ivoire	Algebra ; Cryptology ; Algebraic Geometry and Applications ; Differential Geometry and Applications ; Networks, Services and Telecommunications ; Applied Mathematics; Coding ; Probability-Statistics ; Analysis
	Ghana	Algebra, Cryptology, Geometry, Differential Geometry, Statistics, Networks, Services and Telecommunications, Applied Mathematics, Probability, Statistics, Analysis, computer graphics.
	Mali	Algebra, Algebraic Geometry and Applications Differential Geometry and Applications, Networks, Telecommunications, Applied Mathematics, Probability, Statistics, Numerical Analysis.

	Nigeria	Analytical Inorganic Chemistry; Soil Microbiology, Quantum Organic Chemistry, Organic Chemistry, Organic Physical Chemistry, Industrial Chemistry, petro chemistry.
	Senegal	Hydrochemistry and Hydrogeology ; Photochemistry ; Analytical Inorganic Chemistry; Quantum Organic Chemistry; Computing Organic Chemistry; Organic Coordination Chemistry; Organic Physical Chemistry and Instrumental Analyses.
Medicine	**Cote d'Ivoire**	Hematology, Gastroenterology, Pulmonology, Pediatrics, Neurosurgery, Gynecology, Rheumatology, Nephrology, Ophthalmology, Endocrinology, Dermatology, Venereology, Endocrinology, Metabolism, Gastroenterology, Hepatology, Medical Genetics, Hematology, Internal Medicine, Nuclear Medicine, Physical Medicine and rehabilitation, Nephrology, Neurology, Psychiatry, Hepatology.
	Ghana	Internal Medicine, Nuclear Medicine, Rehabilitation and Physical Medicine, Nephrology, Neurology, Oncology, Radiotherapy, onco-hematology, Gastro-enterology, Pneumology, Pediatrics, Neurosurgery, Gynecology, Rheumatology, Nephrology, Ophthalmology, Endocrinology, Psychiatry, Hepatology cardio-vascular Pathologies

	Mali	Bacteriology-Hygiene, Biophysics, Dermatology, Epidemiology, Biological Hematology, Immunology, Orthopedic Traumatology, Infectious and tropical Diseases.
	Nigeria	Hematology, Gastro-enterology, Pneumology, Pediatrics, Neurosurgery, Gynecology, Rheumatology, Nephrology, Ophthalmology, Endocrinology, Psychiatrics, Hepatology
	Senegal	Dermatology, venereology, Endocrinology, metabolism, Gastro-enterology, Hepatology, Medical Genetics, Hematology, Internal Medicine, Nuclear Medicine, Physical Medicine and Rehabilitation, Nephrology, Neurology, Oncology, Radiotherapy, Onco-hematology, Cardio-vascular Diseases, Pneumology, Radio diagnostic and medical imaging, Rheumatology, General Surgery, Neurosurgery, Ophthalmology, otorhinolaryngology, Head and Neck surgery,Stomatology, Anesthesia-resuscitation, Medical Biology, Medical Gynecology, Gynecology obstetrics, General Medicine, Pediatrics, Psychiatrics.
Agronomy	**Cote d'Ivoire**	Agronomy, Agroecology, hydrology, animal production, crop production, Food Engineering, Food Science, Horticulture, Aquaculture, Beekeeping, Agrology, Entomology, Viticulture, Animal Husbandry.

	Ghana	Agro-ecology, Animal Science, Food Science, Horticulture, Agronomy, Hydrology, Aquaculture, Beekeeping, Agrology, Entomology, Viticulture
	Mali	Agro-ecology, animal production, crop production, Food Engineering, Food Science, Horticulture, Agronomy, Pomology, Hydrology, Aquaculture, Beekeeping, Agrology, Entomology, Viticulture, Animal Husbandry.
	Nigeria	Agro-ecology, Animal Husbandry, Food Engineering, Food Science, Horticulture, Agronomy, Pomology, Hydrology, Aquaculture, Beekeeping, Agrology, Entomology, Viticulture.
	Senegal	Agro-ecology, Agronomy, Animal Husbandry, Beekeeping, Agrology, Entomology, Agricultural Economics, Agricultural engineering, food engineering, Aquaculture, Enology, Food Science, Horticulture, Hydrology, Pomology, Viticulture, Climatology, animal production, crop production.

Environment	Cote d'Ivoire	Remote Sensing, Soil Sciences, Ecology, Environmental Law, Meteorology, Climatology, Environmental Devices, Hydrogeology, Ecophysiology, Autecology, Population ecology, community ecology, ecosystem.
	Ghana	Hydrogeology, Soil Sciences, Ecology, Environmental Law, Meteorology, Climatology, Environmental Devices, Ecophysiology, Autecology, ecosystems.
	Mali	Remote Sensing, Soil Sciences, Ecology, Environmental Law, Meteorology, Climatology, Environmental Devices, Hydrogeology, Ecophysiology, Autecology, Population ecology, community ecology, ecosystem.
	Nigeria	Hydrogeology, Soil Sciences, Ecology, Environmental Law, Meteorology, Climatology, Environmental Devices, Ecophysiology, Autecology, ecosystems.

	Senegal	Ecology, Environmental Law, Meteorology, Remote Sensing, Climatology, Rural Development, General Agronomy, Soil Sciences, Environmental Devices, Hydrogeology, Ecophysiology, Autecology, Population ecology, community ecology, ecosystem.

Sources: Author fromcountryreporton the state of research, 2010

Annex B. 3 : Main Research Disciplines in humanities and social sciences

Fields	Countries	Disciplines
Social Sciences	**Cote d'Ivoire**	Law, democracy,governance, economics, environment; management, Legal Sciences, Political Sciences, Education Sciences, anthropology, demography, geography.
	Ghana	Psychology, Economics, Legal Science, Political Science, Education Science, Anthropology, demography, geography(human, economic and social) Urban and rural planning, Linguistics, Sociology

	Mali	Economics, Legal Science, Political Science, Anthropology, demography, geography(human, economic and social) Urban and rural planning, Linguistics, Sociology, ArtsandCulture
	Nigeria	Psychology, Economics, Legal Science, Political Science; aesthetic; African literature, anthropology, demography, Geography, Urban and rural planning, Linguistics, Sociology, Drama.
	Senegal	Psychology, Economics, Legal Science, Political Science, Science, Education Science, Anthropology, demography, geography (human, economic and social) Urban and Rural planning, Linguistics, Sociology, African and French Literature.
Humanities	Cote d'Ivoire	History, languages(ancient and modern), Diplomacy, Philosophy, Literature
	Ghana	
	Mali	
	Nigeria	
	Senegal	

Sources:Authorfrom country report on the state ofresearch, 2010

Annex B.4:The research themes prioritized by national, regional and international research institutions.

Geographical position	Countries	Research themes		
		National Institutions	Regional Institutions	International Institutions
Forestry	Benin	Public Health, Geology and mines, Science and technology	Public Health	Animal Production, Food Security, Youth and agricultural Entrepreneurship, Humanity and its environment.

	Burkina-Faso	Natural resource management, Animal production systems, forestry and crop production,		Agricultural, Livestock,Health,Animal Production, Sleeping Sickness, Nutrition, Pedology, regionalmigration, environment
	GuineaConakry	Nutrition, Environ ment,Education, Governance		
	Togo	Agriculture, Virology-phytopathology, Agro-resources, Health, Humanities and social sciences urban development, innovation, Education	Food ProductionVirology, Phytopathology	Economic Policies, Poverty alleviation, Environm governance

Sahelian	**Gambia**	Animal production,Food self-sufficiency,Malaria, HIV/ AIDS,Public Health, Nutrition		AnimalHealth,Agriculture
	Mali	Agriculture, public Health, Education		Environment, food security ; Health; Globalization, Humanities
	Niger	Food Security, rural development, Education		Climate change, Ecosystems,food security, crop Protection, Agro-meteorology,hydrology
	Senegal	Science and Technology, economic growth, indebtedness; Education and training, agricultural financing,Craft, Health, Immigration, Africa integration	Governance, agriculture, innovation and technology.	Climate change, Education, Agriculture,health, food security, livestock

Sources: Author from country report on the state of research, 2010.

Table : Number of doctoral candidates and of researchers for 100 000 inhabitants within the ECOWAScountries

Countries	Years	Number of doctoral candidates for 100 000 inhabitants	Years	Number of researchers over 100 000 inhabitants
Benin	2008	4		
Burkina-Faso	2008	3	2010	5
Cape-Verde	2008	14		

Cote d'Ivoire			2005	6
Gambia				
Ghana			2007	2
Guinea				
Guinea Bissau				
Liberia				
Mali			2006	4
Niger			2005	1
Nigeria			2007	4
Senegal	2008	50	2008	37
Sierra Leone				
Togo			2007	4

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COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 - 21 June 2013

REGULATION C/REG.1./06/13 DEFINING THE LIST COMPRISING THE CATEGORIES OF PRODUCTS CONTAINED IN THE ECOWAS TARIFF AND STATISTICAL NOMENCLATURE

THE COUNCIL OF MINISTERS,

MINDFUL of articles 10, 11, and 12 of the ECOWAS revised Treaty creating the Council of Ministers and defining its composition and functions;

MINDFUL of Decision A/DEC.17/01/06 adopting the ECOWAS Common External Tariff,

MINDFUL of Decision A/DEC.14/01/06 on the creation, organization, and functioning of the joint ECOWAS-UEMOA Committee for the management of the ECOWAS Common External Tariff (CET);

MINDFUL of the Supplementary Act A/SA.1/06/09 on the amendment to the Decision A/DEC.17/01/06 of adopting the ECOWAS Common External Tariff (CET);

MINDFUL of Regulation C/REG.1/5/09 on the adoption of the 2007 version of the Harmonized Commodity Description and Coding System (HS);

DESIROUS to implement the provisions of articles 35, 36, and 37, of the ECOWAS Treaty relating to the establishment of the ECOWAS Common External Tariff and concerning all products imported from third countries into member states, and in this regard define the list comprising the categories of products contained in the ECOWAS Tariff and Statistical Nomenclature;

UPON THE PROPOSAL of the 12th meeting of the joint ECOWAS-UEMOA committee for the management of the ECOWAS Common External Tariff held in Abidjan from 11 to 14 December 2012;

UPON THE RECOMMENDATION of the fifty-first session of the Technical Committee on Trade, Customs, and Free Movement held in Praia on 18 to 19 March 2013.

ENACTS

Article 1: Classification of Categories of Goods

The products contained in the Tariff and Statistical Nomenclature of the Common External Tariff (CET) of the Economic Community of West African States (ECOWAS) are classified in different categories as listed in the Annex to this Regulation. The annex is an integral part of the Regulation.

Article 2: Adoption of Harmonized System

The 2012 amendments of the Harmonized Commodity Description and Coding System (HS) are hereby adopted

Article 3: Extension of the Statistical Nomenclature of the Common External Tariff

For the implementation of the provisions of the article 1, the Tariff and Statistical Nomenclature of the Common External Tariff (CET) of the Economic Community of West African States, based on the Harmonized Commodity Description and Coding System (HS) of the World Customs Organization (WCO), is extended from 06 digits to 10 digits.

Article 4: Declaration of Products

Imported products in the Member States are to be declared in accordance with the ECOWAS Tariff and Statistical Nomenclature (TSN)

Article 5: Entry Into Force and Publication

This present Regulation shall enter into force upon signature by the President of the Council of Ministers. This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 - 21 June, 2013

REGULATION C/REG.2/06/13 DETERMINING THE CUSTOMS VALUE OF PRODUCTS IN ECOWAS

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11, and 12 of the ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Decision A/DEC.17/01/06 adopting the ECOWAS Common External Tariff,

MINDFUL of Decision A/DEC.14/01/06 on the creation, organization, and functioning of the joint ECOWAS-UEMOA committee for the management of the ECOWAS Common External Tariff;

MINDFUL of the Supplementary Act A/SA.1/06/09 on the amendment to Decision A/DEC.17/01/06 on the adoption of the ECOWAS Common External Tariff;

MINDFUL of Regulation C/REG.1/5/09 on the adoption of the 2007 version of the Harmonized Commodity Description and Coding System (HS);

MINDFUL of Regulation C/REG.1/06/13 defining the list comprising the categories of products contained in the ECOWAS Tariff and Statistical Nomenclature;

DETERMINED to implement the provisions of articles 35, 36, and 37, of the ECOWAS Treaty relating to the establishment of the ECOWAS Common External Tariff and concerning all products imported from third countries into member States, and in this regard determine the customs value of products in ECOWAS;

ON THE PROPOSAL of the Twelfth meeting of the joint ECOWAS-UEMOA committee for the management of the ECOWAS Common External Tariff held in Abidjan from 11 to 14 December 2012;

UPON THE RECOMMENDATION of the Fifty-first meeting of the Ministerial Committee on Trade, Customs, and Free Movement held in Praia on 18-19 March 2013.

ENACT

CHAPTER 1

Article 1: Definitions

1. In this Regulation:

(a) "customs value of imported goods" means the value of goods for the purposes of levying duties and taxes contained in the Common External Tariff;

(b) "produced" includes grown, manufactured and mined.

(c) "identical goods" means goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical;

(d) "similar goods" means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;

(e) "identical goods" and "similar goods" do not include, as the case may be, goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under paragraph 1(b)(iv) of Article 4 because such elements were undertaken in the Community;

(f) goods shall not be regarded as "identical goods" or "similar goods" unless they were produced in the same country as the goods being valued;

(g) goods produced by a different person shall be taken into account only when there are no identical goods or similar goods, as the case may be, produced by the same person as the goods being valued.

(h) The expression "goods of the same class or kind" means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

(i) "Agreement" means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

2. For the purposes of this Regulation, persons shall be deemed to be related only if:

(a) they are officers or directors of one another's businesses;

(b) they are legally recognized partners in business;

(c) they are employer and employee;

(d) any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;

(e) one of them directly or indirectly controls the other;

(f) both of them are directly or indirectly controlled by a third person;

(g) together they directly or indirectly control a third person; or

(h) they are members of the same family.

3. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Agreement if they fall within the criteria of paragraph 2.

4. For the purposes of this Regulation, the term "person" applies, where appropriate, to a legal person.

Article 2: Method of Evaluation of Imported Goods

1. Articles 3, 5, through 10 define how the customs value of imported goods is to be determined under the provisions of this Regulation. The methods of valuation are set out in a sequential order of application. The primary method for customs valuation is defined in Article 3 and imported goods are to be valued in accordance with the provisions of this Article whenever the conditions prescribed therein are fulfilled.

2. Where the customs value cannot be determined under the provisions of Article 3, it is to be determined by proceeding sequentially through the succeeding Articles to the first such Article under which the customs value can be determined. Except as provided in Article 7, it is only when the customs value cannot be determined under the provisions of a particular Article that the provisions of the next Article in the sequence can be used.

3. If the importer does not request that the order of Articles 8 and 9 be reversed, the normal order of the sequence is to be followed. If the importer does so request but it then proves impossible to determine the customs value under the provisions of Article 9, the customs value is to be determined under the provisions of Article 8, if it can be so determined.

4. Where the customs value cannot be determined under the provisions of Articles 3, 5, through 9 it is to be determined under the provisions of Article 10 of this Regulation.

Article 3: Transaction Value of Imported Goods

1. The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the Community adjusted in accordance with the provisions of Article 4, provided:

(a) that there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which:

- are imposed or required by law or by the public authorities in the country of importation;
- limit the geographical area in which the goods may be resold; or
- do not substantially affect the value of the goods;

(b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

(c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Article 4; and

(d) that the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of paragraph 2 of this Article.

2. (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1 of this Article, the fact that the buyer and the seller are related within the meaning of Article 1 shall not in itself be grounds for regarding the transaction value as unacceptable. In such case the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise, the customs administration has grounds for considering that the relationship influenced the price, it shall communicate its grounds to the importer and the importer shall be given a reasonable opportunity to respond. If the importer so requests, the communication of the grounds shall be in writing.

(b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with the provisions of paragraph 1 of this Article whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time:

(i) the transaction value in sales to unrelated buyers of identical or similar goods for export to the Community;
(ii) the customs value of identical or similar goods as determined under the provisions of Article 5;
(iii) the customs value of identical or similar goods as determined under the provisions of Article 6;

(c) In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 4 and costs incurred by the seller in sales in which the seller and the buyer are not related that are not incurred by the seller in sales in which the seller and the buyer are related.

(d) The tests set forth in paragraph 2(b) are to be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under the provisions of paragraph 2(b).

<u>Article 4</u>: Components of Custom Value for Imported Goods

1. In determining the customs value under the provisions of Article 3, there shall be added to the price actually paid or payable for the imported goods:

(a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
   (i) commissions and brokerage, except buying commissions;
   (ii) the cost of containers which are treated as being one for customs purposes with the goods in question;
   (iii) the cost of packing whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
   (i) materials, components, parts and similar items incorporated in the imported goods;
   (ii) tools, dies, moulds and similar items used in the production of the imported goods;
   (iii) materials consumed in the production of the imported goods;
   (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;

(c) royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

(e) the cost of transport of the imported goods to the port or place of importation;

(f) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and

(g) the cost of insurance.

2. Additions to the price actually paid or payable shall be made under this article only on the basis of objective and quantifiable data.

3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

<u>Article 5</u>: Determination of Transaction Value of Imported Goods Based on Identical Goods

1. (a) If the customs value of the imported goods cannot be determined under the provisions of Article 3, the customs value shall be the transaction value of identical goods sold for export to the Community and exported at or about the same time as the goods being valued.

   (b) In applying this Article, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities,

adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in paragraph 1. (e), (f), (g), of Article 4 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 6 Determination of Transaction Value of Imported Goods Based on Similar Goods

1. (a) If the customs value of the imported goods cannot be determined under the provisions of Articles 3 and 5, the customs value shall be the transaction value of similar goods sold for export to the Community and exported at or about the same time as the goods being valued.

   (b) In applying this Article, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and/or in different quantities, adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in paragraph 1. (e), (f), (g), of Article 4 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 7: Reverse Application of Custom Value

If the customs value of the imported goods cannot be determined under the provisions of Articles 3, 5 and 6, the customs value shall be determined under the provisions of Article 8 or, when the customs value cannot be determined under that Article, under the provisions of Article 9 except that, at the request of the importer, the order of application of Articles 8 and 9 shall be reversed.

Article 8: Custom Value of Imported Goods Based on Unit Price

1. (a) If the imported goods or identical or similar imported goods are sold in the Community in the condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:

   (i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;
   (ii) the usual costs of transport and insurance and associated costs incurred within the Community;
   (iii) where appropriate, the costs and charges referred to in paragraph 1 e, f, g, of Article 4; and
   (iv) the customs duties and other national taxes payable in the Community by reason of the importation or sale of the goods.

   (b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of paragraph 1(a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Community in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of 90 days after such importation.

2. If neither the imported goods nor identical nor similar imported goods are sold in the Community in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Community who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1(a).

Article 9: Custom Value of Imported Goods Based on Computed Value

1. The customs value of imported goods under the provisions of this Article shall be based on a computed value. Computed value shall consist of the sum of:

   (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
   (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the Community;
   (c) the cost or value of all other expenses necessary to reflect the valuation option under paragraph 1 (e), (f), (g) of Article 4.

2. No Member may require or compel any person not resident in the Community to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value under the provisions of this Article may be verified in another country outside the Community by the authorities of a member state with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

Article 10: Custom Value of Goods Based on International Best Practice

1. If the customs value of the imported goods cannot be determined under the provisions of Articles 3, 5, through 9, inclusive, the customs value shall be determined using reasonable means consistent with the principles and general provisions of this Agreement and of Article VII of GATT 1994 and on the basis of data available in the Community.

2. No customs value shall be determined under the provisions of this

Article on the basis of:

(a) the selling price in the Community of goods produced in the Community;
(b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
(c) the price of goods on the domestic market of the country of exportation;
(d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 9;
(e) the price of the goods for export to a country other than the Community;
(f) minimum customs values; or
(g) arbitrary or fictitious values.

3. If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Article and the method used to determine such value.

Article 11 : Conversion Rate

1. Where the conversion of currency is necessary for the determination of the customs value, the rate of exchange to be used shall be that duly published by the Central Bank of each member state where such institution exist or by the Central Bank of West African States (BCEAO) at the date of lodgement of the Customs declaration.

Article 12: Confidentiality

All information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential by the authorities concerned who shall not disclose it without the specific permission of the person or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.

Article 13: Right of Recourse

1. In case of dispute, concerning the determination of the customs value, the importer or any other person liable for the payment of the duties contained in the common external tariff, has a right of appeal without penalty.

2. An initial right of appeal without penalty may be to the customs administration.

3. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing. The appellant shall also be informed of any rights of further appeal.

4. If the dispute is brought before a judicial authority, the rules of court procedure shall be those in force in each Member State.

Article 14: Guarantee

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of such customs value, the importer of the goods shall nevertheless be able to withdraw them from customs if, where so required, the importer provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument, covering the ultimate payment of customs duties for which the goods may be liable.

Article 15: Written Request for Explanation

1. Upon written request, the importer shall have the right to an explanation in writing from the customs administration as to how the customs value of the importer's goods was determine.

Article 16: Proof of Custom Value of Imported Goods

Nothing in this regulation shall be construed as restricting or calling into question the rights of a customs administration to satisfy itself as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes

Where a declaration has been presented and the customs administration has reason to doubt the truth or accuracy of the information or documents provided in support of this declaration, the customs administration may ask the importer to provide further explanation, including documents or other evidence, showing that the declared value represents the total amount actually paid or payable for the imported goods, adjusted in accordance with Article 4. If, after receiving further information, or lack of response, the customs administration still has reasonable doubts about the veracity or accuracy of the declared value, it may be considered, taking into account the provisions of Article 13, the customs value of imported goods cannot be determined in accordance with the provisions of Article 3. Before making a final decision, the customs administration shall communicate to the importer, in writing if the request is made, the reasons for doubting the truth or accuracy of the information or documents provided and the importer shall be given a reasonable opportunity to respond. Once a final

decision has been made, the customs administration shall notify the importer in writing, and the reasons for the decision.

Article 16: Annex to this Regulation

The notes contained in the Annex to this Regulation form an integral part of the regulation. The articles of this regulation shall be read and applied together with the notes contained in the annex.

CHAPTER II: FINAL PROVISIONS

Article 17: Publication

This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

Seventieth ordinary session of the Council of Ministers

Abidjan, 20 & 21 July 2013

ANNEX TO

REGULATION C/REG..../13 DETERMINING THE CUSTOMS VALUE OF PRODUCTS IN ECOWAS

Note to Article 3

Price Actually Paid or Payable

1. The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments. Payment may be made directly or indirectly. An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller.

2. Activities undertaken by the buyer on the buyer's own account, other than those for which an adjustment is provided in Article 4, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the customs value.

3. The customs value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods:

(a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;

(b) the cost of transport after importation;

(c) duties and taxes of the country of importation.

4. The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

Paragraph 1(a)(iii)

Among restrictions which would not render a price actually paid or payable unacceptable are restrictions which do not substantially affect the value of the goods. An example of such restrictions would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

Paragraph 1(b)

1. If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for customs purposes. Some examples of this include:

(a) the seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities;

(b) the price of the imported goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods;

(c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that the seller will receive a specified quantity of the finished goods.

2. However, conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in the country of importation shall not result in rejection of the transaction value for the purposes of Article 1. Likewise, if the buyer undertakes on the buyer's own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the customs value nor shall such activities result in rejection of the transaction value.

Paragraph 2

1. Paragraphs 2(a) and 2(b) provide different means of establishing the acceptability of a transaction value.

2. Paragraph 2(a) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs administration have no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the customs administration may have previously examined the relationship, or it may already have detailed information concerning the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price.

3. Where the customs administration is unable to accept the transaction value without further inquiry, it should give the importer an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale. In this context, the customs administration should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of Article 15, buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to the seller, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.

4. Paragraph 2(b) provides an opportunity for the importer to demonstrate that the transaction value closely approximates to a "test" value previously accepted by the customs administration and is therefore acceptable under the provisions of Article 1. Where a test under paragraph 2(b) is met, it is not necessary to examine the question of influence under paragraph 2(a). If the customs administration has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in paragraph 2(b) has been met, there is no reason for it to require the importer to demonstrate that the test can be met. In paragraph 2(b) the term "unrelated buyers" means buyers who are not related to the seller in any particular case.

Paragraph 2(b)

A number of factors must be taken into consideration in determining whether one value "closely approximates" to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the "test" values set forth in paragraph 2(b) of Article 1.

Note to Article 4

Paragraph 1(a)(i)

The term "buying commissions" means fees paid by an importer to the importer's agent for the service of representing the importer abroad in the purchase of the goods being valued.

Paragraph 1(b)(ii)

1. There are two factors involved in the apportionment of the elements specified in paragraph 1(b)(ii) of Article 4 to the imported goods - the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.

2. Concerning the value of the element, if the importer acquires the element from a seller not related to the importer at a given cost, the value of the element is that cost. If the element was produced by the importer or by a person related to the importer, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downward to reflect its use in order to arrive at the value of the element.

3. Once a value has been determined for the element, it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the number of units produced up to the time of the first shipment. As a further example, the importer may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that production. The method of apportionment used will depend upon the documentation provided by the importer.

4. As an illustration of the above, an importer provides the producer with a mould to be used in the production of the imported goods and contracts with the producer to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4,000 units. The importer may request the customs administration to apportion the value of the mould over 1,000 units, 4,000 units or 10,000 units.

Paragraph 1(b)(iv)

1. Additions for the elements specified in paragraph 1(b)(iv) of Article 4 should be based on objective and quantifiable data. In order to minimize the burden for both the importer and customs administration in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible.

2. For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them.

3. The ease with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods.

4. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside the country of importation in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of Article 4.

5. In another case, a firm may carry the cost of the design centre outside the country of importation as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of Article 4 with respect to the imported goods by apportioning total design centre costs over total production benefiting from the design centre and adding such apportioned cost on a unit basis to imports.

6. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.

7. In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to that element outside the country of importation.

Paragraph 1(c)

1. The royalties and licence fees referred to in paragraph 1(c) of Article 4 may include, among other things, payments in respect to patents, trademarks and copyrights. However, the charges for the right to reproduce the imported goods in the country of importation shall not be added to the price actually paid or payable for the imported goods in determining the customs value.

2. Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the country of importation of the imported goods.

Paragraph 3

Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Article 4, the transaction value cannot be determined under the provisions of Article 1. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product that was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

Note to Article 5

1. In applying Article 5, the customs administration shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of similar goods that takes place under any one of the following three conditions may be used:

(a) a sale at the same commercial level but in different quantities;

(b) a sale at a different commercial level but in substantially the same quantities; or

(c) a sale at a different commercial level and in different quantities.

2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:

(a) quantity factors only;

(b) commercial level factors only; or

(c) both commercial level and quantity factors.

3. The expression "and/or" allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

4. For the purpose of Article 5, the transaction value of similar imported goods means a customs value, adjusted as provided for in paragraphs 1(b) and 2, which has already been accepted under Article 3.

5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only similar imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 5 is not appropriate.

Note to Article 6

1. In applying Article 6, the customs administration shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of similar goods that takes place under any one of the following three conditions may be used:

(a) a sale at the same commercial level but in different quantities;

(b) a sale at a different commercial level but in substantially the same quantities; or

(c) a sale at a different commercial level and in different quantities.

2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:

(a) quantity factors only;

(b) commercial level factors only; or

(c) both commercial level and quantity factors.

3. The expression "and/or" allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

4. For the purpose of Article 6, the transaction value of similar imported goods means a customs value, adjusted as provided for in paragraphs 1(b) and 2, which has already been accepted under Article 1.

5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only similar imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 6 is not appropriate.

Note to Article 8

1. The term "unit price at which ... goods are sold in the greatest aggregate quantity" means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

2. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	*Unit price*	*Number of sales*	*Total quantity sold at each price*
1-10 units	100	10 sales of 5 units 5 sales of 3 units	65
11-25 units	95	5 sales of 11 units	55
over 25 units	90	1 sale of 30 units 1 sale of 50 units	80

The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

3. As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.

4. A third example would be the following situation where various quantities are sold at various prices.

(a) Sales

Sale quantity	*Unit price*
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

(b) Totals

Total quantity sold	*Unit price*
65	90
50	95
60	100
25	105

In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.

5. Any sale in the importing country, as described in paragraph 1 above, to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in paragraph 1(b) of Article 4, should not be taken into account in establishing the unit price for the purposes of Article 8.

6. It should be noted that "profit and general expenses" referred to in paragraph 1 of Article 8 should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless the importer's figures are inconsistent with those obtained in sales in the Community of imported goods of the same class or

kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer.

7. The "general expenses" include the direct and indirect costs of marketing the goods in question.

8. Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of paragraph 1(a)(iv) of Article 8 shall be deducted under the provisions of paragraph 1(a)(i) of Article 8

9. In determining either the commissions or the usual profits and general expenses under the provisions of paragraph 1 of Article 8, the question whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in the country of importation of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 8, "goods of the same class or kind" includes goods imported from the same country as the goods being valued as well as goods imported from other countries.

10. For the purposes of paragraph 1(b) of Article 8, the "earliest date" shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

11. Where the method in paragraph 2 of Article 8 is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.

12. It is recognized that the method of valuation provided for in paragraph 2 of Article 8 would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty. On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

Note to Article 9

1. As a general rule, customs value is determined under this Agreement on the basis of information readily available in the country of importation. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside the country of importation. Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the country of importation. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the authorities of the country of importation the necessary costings and to provide facilities for any subsequent verification which may be necessary.

2. The "cost or value" referred to in paragraph 1(a) of Article 9 is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.

3. The "cost or value" shall include the cost of elements specified in paragraphs 1(a)(ii) and (iii) of Article 4. It shall also include the value, apportioned as appropriate under the provisions of the relevant note to Article 4, of any element specified in paragraph 1(b) of Article 4 which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in paragraph 1(b)(iv) of Article 4 which are undertaken in the country of importation shall be included only to the extent that such elements are charged to the producer. It is to be understood that no cost or value of the elements referred to in this paragraph shall be counted twice in determining the computed value.

4. The "amount for profit and general expenses" referred to in paragraph 1(b) of Article 9 is to be determined on the basis of information supplied by or on behalf of the producer unless the producer's figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation.

5. It should be noted in this context that the "amount for profit and general expenses" has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and the producer's general expenses are high, the producer's profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in the country of importation and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate a low profit on sales of the imported goods because of particular commercial circumstances, the producer's actual profit figures should be taken into account provided that the producer has valid commercial reasons to justify them and the producer's pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in the country of importation and accept a low profit to maintain competitivity. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.

6. Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the authorities of the importing country shall inform the importer, if the latter so requests, of the source of such information, the data used and the calculations based upon such data, subject to the provisions of Article 12.

7. The "general expenses" referred to in paragraph 1(b) of Article 9 covers the direct and indirect costs of producing and selling the goods for export which are not included under paragraph 1(a) of Article 9.

8. Whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of Article 9, sales for export to the country of importation of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 9, "goods of the same class or kind" must be from the same country as the goods being valued.

Note to Article 10

1. Customs values determined under the provisions of Article 10 should, to the greatest extent possible, be based on previously determined customs values.

2. The methods of valuation to be employed under Article 10 should be those laid down in Articles 1 through 6 but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Article 10.

3. Some examples of reasonable flexibility are as follows:

(a) *Identical goods* - the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Articles 8 and 9 could be used.

(b) *Similar goods* - the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Articles 8 and 9 could be used.

(c) *Deductive method* - the requirement that the goods shall have been sold in the "condition as imported" in paragraph 1(a) of Article 8 could be flexibly interpreted; the "90 days" requirement could be administered flexibly.

Note to Article 11

For the purposes of Article 11, "time of importation" may include the time of entry for customs purposes.

Note to Article 13

1. Article 13 provides the importer with the right to appeal against a valuation determination made by the customs administration for the goods being valued. Appeal may first be to a higher level in the customs administration, but the importer shall have the right in the final instance to appeal to the judiciary.

2. "Without penalty" means that the importer shall not be subject to a fine or threat of fine merely because the importer chose to exercise the right of appeal. Payment of normal court costs and lawyers' fees shall not be considered to be a fine.

3. However, nothing in Article 13 shall prevent a Member from requiring full payment of assessed customs duties prior to an appeal.

COMMUNAUTE ECONOMIQUE DES ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY OF WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 - 21 June, 2013

REGULATION C/REG.3/06/13 DETERMINING THE PRODEDURE APPLICABLE TO GOODS HEAVILY TAXED THAN CERTAIN FINISHED PRODUCTS

THE COUNCIL OF MINISTERS,

MINDFUL of articles 10, 11, and 12 of the ECOWAS Revised as amended establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Decision A/DEC.17/01/06 adopting the ECOWAS Common External Tariff,

MINDFUL of Decision A/DEC.14/01/06 on the creation, organization, and functioning of the joint ECOWAS-UEMOA committee for the management of the ECOWAS Common External Tariff;

MINDFUL of the Supplementary Act A/SA.1/06/09 on the amendment to the Decision A/DEC.17/01/06 on the adoption of the ECOWAS Common External Tariff;

MINDFUL of Regulation C/REG.1/5/09 on the adoption of the 2007 version of the Harmonized Commodity Description and Coding System (HS);

MINDFUL of Regulation C/REG...../...../13 defining the list comprising the categories of products contained in the ECOWAS Tariff and Statistical Nomenclature;

DESIROUS to implement the provisions of articles 35, 36, and 37, of the ECOWAS Treaty relating to the establishment of the ECOWAS Common External Tariff and concerning all products imported from third countries into member states, and in this regard determine the procedure to be applied to goods heavily taxed than certain finished products;

ON THE PROPOSAL of the 12th meeting of the joint ECOWAS-UEMOA committee for the management of the ECOWAS Common External Tariff held in Abidjan from 11 to 14 December 2012;

UPON THE RECOMMENDATION of the fifty-first session of the Technical Committee on Trade, Customs, and Free Movement held in Praia on 18 - 19 March 2013;

ENACTS

Article 1: Suspension Regime of Goods Heavily Taxed

Without prejudice to the provisions of the Regulation defining the list comprising categories of products contained in the ECOWAS Tariff and Statistical Nomenclature, Member States are authorized, under the conditions defined in this Regulation, to use customs suspense regimes for goods taxed more heavily than the finished products for which they are used.

Article 2: Temporary Admission for Inward Processing

a. When imported, for the manufacture of products in category 0, the relevant inputs are declared under Temporary Admission for inward processing.

b. For their release for home consumption, these inputs are accorded the taxation provided for the compensation of finished products. They are also exempted from penalty interest under the general regime of Temporary Admission for inward processing.

Article 3: Facilitation Measures

Member States shall take all necessary measures in order to accord such inputs simplified procedures and the various facilitation measures under International Conventions, Community texts and national laws of the Member States.

Article 4: Entry Into Force and Publication

This present Regulation shall enter into force upon signature by the President of the Council of Ministers. This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 - 21 June 2013

REGULATION C/REG.4/06/13 RELATING TO SAFEGUARD MEASURES

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11, and 12 of the ECOWAS Revised Treaty as amended establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Articles 35, 36, and 37 of the said Treaty relating to trade liberalization, customs duties, and the common external tariff concerning all imported products from third countries into Member States with the view to establishing a customs union in the community;

MINDFUL of Decision A/DEC.17/10/06 adopting the ECOWAS Common External Tariff, notably article 9 of the said Decision authorizing the Council of Minister to determine through a Regulation the list of products, tax base, rate and duration of the imposition of the Import safeguard tax;

CONSIDERING that safeguard measures constitute an additional protection mechanism to protect community production;

DESIROUS of ensuring a smooth implementation of the Common External Tariff by the adoption within this framework of a mechanism for the application of the Import safeguard tax, and in this regard, adopt safeguard measures to achieve the above mentioned objectives ;

ON THE PROPOSAL of the 13th meeting of the joint ECOWAS-UEMOA committee for the management of the ECOWAS common external tariff held in Dakar on 29-30 April, 2013;

UPON THE RECOMMENDATION of the fifty second session of the Technical Committee on Trade, Customs, and Free movement held in Dakar, on 02-03 May 2013;

ENACTS

CHAPTER 1: GENERAL PRINCIPLES

Article 1: Definitions

For the purpose of this Regulation:

Authority: the Authority of Heads of States and Government of member States of the Community created by article 7 of the ECOWAS Revised Treaty;

ECOWAS means the Economic Community of West African States, the creation of which was reaffirmed by Article 2 of the Revised Treaty signed in Cotonou on 24 July 1993;

Commission means the ECOWAS Commission created by article 17 of the ECOWAS Revised Treaty as amended by Supplementary Protocol A/SP1/06/06 on the amendment of the said treaty;

Community means the Economic Community of West African States, the creation of which was reaffirmed by article 2 of the Revised Treaty signed in Cotonou on 24 July 1993;

Community Industry means all producers of identical, like or directly competing products operating within the territory of the Community or producers whose collective productions of, like or directly competing products account for a major proportion of the total community production of such products.

Council: the Council of Ministers created by article 10 of the ECOWAS Revised Treaty as amended by Supplementary Protocol A/SP1/06/06;

Member State: Member State of the Community;

"**Serious injury:** means a significant overall impairment in the position of an industry within the Community."

Third countries: countries other than Member States of the Community;

"Threat of serious injury": means a serious injury that is clearly imminent based on facts and not merely on allegation, conjecture or remote possibility;

Treaty: the Revised ECOWAS Treaty signed in Cotonou on 24th July 1993 and all its subsequent amendments.

Article 2: **Establishment and Objective of safeguard measures**

1. It is hereby established within ECOWAS safeguard measures in the application of the provisions of article 9 of Decision A/DEC17/10/06 adopting the ECOWAS Common External Tariff;

2. The objective of the safeguard measures under paragraph 1 is to protect a specific community industry against increased imports of any product which is causing or threatening to cause a serious injury to the said industry.

Article 3: Scope

The scope of the safeguard measures shall cover imports of products originating from third countries for home consumption within the Community.

Article 4: Conditions for application

These safeguard measures shall apply if the following conditions exist:

a. An increase in volume either in absolute figures or in relation to local production of a product similar to, or competing with the local production ;
b. Existence of a serious injury or threat of serious injury due to the increase in imports ;
c. A causal link between the increase in imports and the injury.

Article 5: **Application of safeguard measures**

a. These safeguard measures shall be applicable on the Community territory as much as necessary, to prevent or remedy a serious injury and facilitate adjustment in the industry concerned.

b. The safeguard measures may be applied in the form of a quantitative restriction, or additional duty.

c. The Community may apply a safeguard measure referred to in paragraph 1 above as a single unit or on behalf of a member State.

d. When the community applies a safeguard measure as a single unit, all the requirements for the determination of serious injury or threat thereof under this Regulation shall be based on the conditions existing in the Community as a whole.

e. When a safeguard measure is applied on behalf of a member State, all the requirements for the determination of serious injury or threat thereof shall be based on the conditions existing in that member State and the measure shall be limited to that member State.

Article 6: **Assessment and collection of revenue from Safeguard measures**

a. Where the safeguard measure takes the form of an additional duty, the said duty shall be based on the customs value of the product concerned.

b. The procedure for assessment and collection of the revenues from the safeguard measures shall be the same as in the case of the Community Levy (CL)

Article 7 : Payment of Revenue

Revenues from safeguard measures shall be paid into a special fund to be created by the Authority of Heads of States and Government

CHAPTER II : PROCEDURE FOR COMMUNITY INFORMATION AND CONSULTATION

Article 8: Information on Safeguard Measures

Where trends in imports call for safeguard measures, any Member State can inform the Commission. Information transmitted by one of the Member States and which can warrant the application of safeguard measures shall cover the following:

a) Imports, where such imports have significantly increased in volume either in absolute figures or in relation to local production or consumption;

b) The import value, especially in case of erratic fluctuations or significant drop compared to the value of an identical, similar or competing product;

c) The consequent impact for producers of the Community as reflected in the following elements:

- Production ;
- Capacity utilisation;
- Stocks ;
- Sales ;
- Market share;
- Price and inflexibility related to the increase in prices ;
- Profits ;
- Returns on invested capital ;
- Liquidity flow ;
- Employment.

d) Factors other than trends in imports which are causing or are likely to cause injury to community producers concerned.

Article 9 : Creation of National Committee

In this regard, a national committee to be created by the Council of Ministers through a regulation shall receive the dossier from the industry concerned.

Article 10: Supplementary Measures

When a threat of serious injury is observed, the Commission shall examine whether it is clearly foreseeable that such a threat is likely to develop into a real injury. In this regard, the Commission shall also take into account elements such as:

a) The rate of increase in exports to the Community ;
b) The export capacity of the country of origin or export as it stands or is likely to be in the foreseeable future and the likelihood that exports generated by this capacity shall be used for exports to the community.

Article 11: Transmission to Member States

The Commission shall transmit the information referred to in article 9 and 10 to Member States.

CHAPTER III : INVESTIGATION PROCEDURE

Article 12:

a. Prior to the application of any safeguard measure, the Commission shall inform Member States of the initiation of an investigation procedure.

b. The Commission, shall inform within a reasonable time, all interested parties in each Member State, particularly producers, importers and exporters and shall gather their views on the application of a safeguard measure.

c. The CET Management Committee shall be consulted before the implementation of all safeguard measures imposed pursuant to this Regulation. In this regard the Commission shall prepare a report which shall be submitted to the CET Management Committee for their opinion.

Article 13: Confidentiality

a. Information received by the Commission or gathered from the investigation procedure shall be confidential.

b. However, when the need arises, Member States and interested parties that have provided confidential information may be requested to furnish a non confidential summary thereof.

Article 14: Publication of Notice

a. Where it appears, based on its appreciation of information provided pursuant to article 9, that there is sufficient evidence to justify the initiation of an investigation, the Commission shall proceed as follows:

   The Commission shall publish a Notice informing Member States of the initiation of an investigation within 45 days of receiving the information. The Notice shall contain a summary of the information received and shall request Member States to gather from the interested parties all the information and opinions and to transmit them in writing to the Commission. The notice shall also set the time frames within which such information must be transmitted to the Commission as well as modalities for cooperation between Member States and the Commission during the investigation.

b. The Commission may directly verify the information and hear any interested party.

Article 15: Report of Investigation

a. At the end of the investigation under article 14 of this Regulation, the Commission shall prepare a report to the CET Management Committee for advice.

b. Where within twelve (12) months of the initiation of the investigation, the Commission considers that a community safeguard measure is not necessary, the investigation shall be terminated after consultation with the CET Management Committee.

c. The decision to terminate the investigation must include an outline of findings of the investigation and a summary of the reasons behind such a decision which shall be published.

d. If a community safeguard measure is necessary, the Council of Ministers shall take the necessary decisions within a time frame that cannot exceed twelve (12) months starting from the initiation of the investigation after consulting the CET Management Committee.

e. All decisions referred to in this article to terminate the investigation shall be taken based on the report stated in article 14 of this Regulation.

CHAPTER IV: IMPLEMENTATION OF SAFEGUARD MEASURES

Article 16: Provisional safeguard measures

a. Under critical circumstances where any delay may cause an irreversible or irremediable injury, the Council of Ministers shall take provisional safeguard measure after it had been determined on preliminary basis that there is clear evidence suggesting that an increase in import has caused or is threatening to cause a serious injury.

b. The provisional safeguard measure shall be applied during a period not exceeding 200 days. Such measures shall take the form of an increase in customs duties which shall be refunded if, after the investigation, the injury or threat of injury is not established.

Article 17: Duration and review of safeguard measures

a. With the exception of cases defined in article 16 above, a safeguard measure shall apply only during a period necessary to prevent or remedy a serious injury and facilitate adjustment on the part of the Community producers. This period shall not exceed four years.

b. Where at the end of this period, it is proven that the safeguard is still necessary to prevent or remedy an injury, the initial imposition period may be extended by a maximum period of six (6) years.

c. The extension measures shall be adopted under the conditions stipulated in articles 9 to 17 of this Regulation. Any measure whose duration shall be extended cannot be more restrictive than what it was at end of the initial period.

Article 18: Consultation by the Commission

a. During the application of a safeguard measure, the Commission shall on its own initiative or that of a Member State initiate consultations with the Member States. With the exception of provisional safeguard measures, these consultations shall be held at the latest by the middle of the application period of the measure.

b. Pursuant to these consultations, the CET Management Committee shall:
   - Assess the effects of the measure;
   - Examine the rationale for maintaining, amending or extending the measure;
   - advise on liberalisation measures as well as the implementation conditions.
   -

c. The safeguard measures shall be amended or repealed, subject to the same conditions under which they were enacted.

Article 19: New Safeguard Measure

a. A new safeguard measure may be applied to the import of a product that had already been subject to such a measure after a period equal to half of that during which this measure has been previously applied, provided that the period of non application is at least two (2) years.

b. The provisions of this article shall be applied to measures taken under the provision of article 16 of this Regulation.

CHAPTER V: FINAL PROVISIONS

Article 20 Submission of Annual Report

a. The Commission shall submit to the Council of Ministers on an annual basis a report on the application of safeguard measures.

b. The Commission shall transmit the necessary notifications through the appropriate channels to the WTO Committee on Safeguards.

Article 21: Entry Into Force and Publication

This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

ECONOMIC COMMUNITY
OF WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 - 21 June 2013

REGULATION C/REG.05/06/13 RELATING TO THE IMPOSITION OF COUNTERVAILING DUTIES

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11, and 12 of the ECOWAS Revised Treaty creating the Council of Ministers and defining its composition and functions;

MINDFUL of Articles 35, 36, and 37 of the said Treaty relating to trade liberalization, customs duties, and the common external tariff concerning all imported products from third countries into member states with the view to establishing a customs union in the community;

MINDFUL of Decision A/DEC.....17/10/06 on the adoption of the ECOWAS Common External Tariff, notably article 9 of the said decision authorizing the Council of Minister to determine through a regulation the list of products, tax base, rate and duration of the imposition of the Import safeguard tax;

CONSIDERING that safeguard measures constitute an additional protection mechanism to protect community production;

DESIROUS of ensuring smooth implementation of the Common External Tariff by the adoption within this framework of a mechanism for the application of the Import safeguard tax, and in this regard, impose duties to compensate for subsidies on products whose release for consumption in the community causes or threaten to cause serious injury to community industry

ON THE PROPOSAL of the 13th meeting of the joint ECOWAS-UEMOA committee for the management of the ECOWAS Common External Tariff held in Dakar on 29-30 April, 2013;

UPON THE RECOMMENDATION of the Fifty Second Meeting of the Ministerial Meeting on Trade, Customs, and Free movement held in Dakar, on 02-03 May 2013;

ENACT THE FOLLOWING:

GENERAL PRINCIPLES

Article 1: Definitions

For the purpose of this Regulation:

"ECOWAS": the Economic Community of West African States, the creation of which was reaffirmed by article 2 of the revised treaty signed in Cotonou on 24 July 1993;

Commission: the ECOWAS Commission created by article 17 of the ECOWAS Revised treaty as amended by Supplementary Protocol A/SP1/06/06 on the amendment of the said treaty;

Community: the Economic Community of West African States, the creation of which was reaffirmed by article 2 of the revised treaty signed in Cotonou on 24 July 1993;

Authority: the Authority of Heads of States and Government of member states of the community created by article 7 of the ECOWAS revised treaty;

Council: the Council of ministers created by article 10 of the ECOWAS revised treaty as amended by Supplementary Protocol A/SP1/06/06;

Member State: member state of the community;

Third countries: countries other than member states of the community;

Treaty: the ECOWAS Revised treaty signed in Cotonou on 24 July 1993 and all subsequent amendments

"**Serious injury":** means a significant overall impairment in the position of an industry within the Community.

"Threat **of serious injury"**: means a serious injury that is clearly imminent based on facts and not merely on allegation, conjecture or remote possibility;

Community industry : means all producers of identical, like or directly competing products operating within the territory of the Community or producers whose collective productions of, like or directly competing products account for a major proportion of the total community production of such products.

Treaty: the revised ECOWAS Treaty signed in Cotonou on 24th July 1993 and all its subsequent amendments.

Public authorities: any public agency under the geographical jurisdiction of the country of origin or export.

Like product: an identical or similar in all respect to the product under consideration,

or in the absence of such a product, another product which, though not alike in all respects, has characteristics closely resembling the product under consideration.

Article 2: Principles

1. A countervailing duty may be imposed to offset any direct or indirect subsidies provided during the production, manufacturing and export or transport of any product whose consumption within the community shall cause or is likely to cause serious injury toindustries within the Community.

2. For the purposes of this regulation, a product shall be considered subsidized if it benefits from a countervailable subsidy as defined in articles 3 and 4.

3. Such subsidy may be granted either by the government of the country of origin of the imported product or public authorities of an intermediary country from where the product is imported into the Community and which is referred to as the "exporting countries" by virtue of this regulation.

4. Notwithstanding paragraphs 1, 2 and 3, when products are not directly imported from the country of origin but are exported to the Community through an intermediary country, the provisions of this regulation shall be fully applicable and in the case where transactions are considered, if applicable" as having been conducted between the country of origin and the Community.

Article 3: Definition of a subsidy

A subvention is deemed to exist:

(a) If there is a financial contribution of public authorities or any public agency under the territorial jurisdiction of the country of origin or export, meaning in cases where:

i. A practice of public authorities involves a direct transfer of funds (for example, in form of grants, loans or interest in the share capital) or potential direct transfers of funds or liabilities (for example loan guarantees);

ii. Public revenues that are otherwise due are forgone or not collected (for example in the case of tax incentives such as tax credits); in this regard the exemption of the exported product from taxes or duties imposed on the like product if it is meant for domestic consumption or the remission of such duties and taxes to the tune of amounts due shall not be considered as a subsidy provided that such an exemption is granted in accordance with the provision of annexes I to III.

iii. Public authorities provide goods and services other than general infrastructure or purchase goods;

iv. Public authorities make payments to a funding mechanism or entrust to a private body one or several types of functions listed under points i), ii) and iii) which under normal circumstances fall within their purview or direct it to do so, the practice does not really differ from the normal practice followed by public authorities;

Or

(b) If there is any form of income support or price support in the sense of article XVI of the 1994 GATT.

And

c) If a benefit is thereby conferred.

Article 4: Specificities

1. Subsidies shall be subject to countervailing measures only if they are specific as defined in paragraphs 2, 3, and 4 of this regulation.

2. In order to determine whether a subsidy is specific to an enterprise or industry or group of enterprises or industries (hereinafter referred to as certain enterprises) within the jurisdiction of the granting authority, the following principles shall apply:

   a) Where the authority granting the subvention, or the legislation applicable, explicitly limits access to a subsidy to certain enterprises, such subsidy shall be considered as specific;

   b) Where the granting authority, or the legislation applicable, establishes objective criteria or conditions governing the eligibility for, and the amount of, a subsidy, specificity shall not exist, provided that the eligibility is automatic and that such criteria and conditions are strictly adhered to. For the purpose of this article 'objective criteria or conditions' means criteria or conditions which are neutral, which do not favour certain enterprises over others, and which are economic in nature and across board in application, such as number of employees or size of enterprise. The criteria or conditions must be clearly set out by law, regulation, or other official document, so as to be subject to verification.

   c) If, notwithstanding any appearance of non-specificity resulting from the application of the principles laid down in points (a) and (b), of this article, there are reasons to believe that the subsidy may in fact be specific, other factors may be considered. Such factors are: use of a subsidy programme by a limited number of certain enterprises; predominant use by certain enterprises; the granting of disproportionately large amounts of subsidy to certain enterprises; and the manner in which discretion has been exercised by the granting authority in the decision to grant a subsidy. In this regard, information on the frequency with which applications for a subsidy are refused or approved and the reasons for such decisions shall, in particular, be considered. In applying the first paragraph, account shall be taken of the extent of diversification of economic activities within the jurisdiction of the granting authority, as well as of the period during which the subsidy programme has been implemented.

3. A subsidy which is limited to certain enterprises located within a designated geographical region within the jurisdiction of the granting authority shall be specific. The setting or changing of generally applicable tax rates by all levels of government entitled to do so shall not be deemed to be a specific subsidy for the purposes of this Regulation.

4. Irrespective of the provisions of paragraphs 2 and 3, of this article, the following subsidies shall be deemed to be specific:

   a) Subsidies contingent, in law or in fact, either solely or as one of several other conditions, upon export performance, including those listed as examples in Annex I;

   b) Subsidies contingent, either solely or as one of several other conditions, upon the use of domestic over imported goods.

5. Any determination of specificity under the provisions of this Article shall be clearly substantiated on the basis of positive evidence.

Article 5: Non countervailable subsidies

1. The following subsidies shall not be subjected to countervailing measures:

   a) Subsidies that are not specific as defined in paragraphs 2 and 3 of article 4;

   b) Subsidies that are specific as defined in paragraph 2 and 3 of article 4 but meet the requirement stated in paragraphs 2, 3 or 4 of this article ;

   c) An element of subsidy that may be included in measures set forth in annex IV;

2. Subsidies for research activities conducted by firms or by higher education or research establishments on a contract basis with firms shall not be subject to countervailing measures if the subsidies granted cover at most 75% of the industrial research cost or 50% of the cost of pre-competitive development activity, provided such subsidies are limited exclusively to the following elements:

   a) Personnel expenditures (researchers, technicians and other support personnel employed exclusively for research activity);

   b) Costs of instruments, material, lands and buildings used exclusively and permanently (except in a case of transfer on commercial basis) forthe researchactivity;

   c) Cost of consultancy or equivalentservices used exclusively for the research activity, including research, technical knowledge, patents, etc. procured from external sources;

   d) Additional overheads incurred directly as a result of the research activity;

   e) Other operating expenses, (for example: costs of materials, supplies and similar products) incurred directly as a result of the research activity.

3. For the purposes of this article:
   a) The allowable levels of non-countervailable subsidy referred to in this paragraph shall be established by reference to the total eligible costs incurred over the duration of a given project.

In the case of programmes which span both `industrial research and `pre-competitive development activity, the allowable level of non-countervailable subsidy shall not exceed the simple average of theallowable levels of non-countervailable subsidy applicable to the above two categories, calculated on thebasis of all eligible costs as set forth in points (a) to (e) of paragraph 2 of this article;

b) the term "industrial research" means planned research or critical investigation aimed at discovery of new knowledge, with the objective that such knowledge may be useful in developing new products, processes or services, or in bringing about a significant improvement to existing products, processes or services;

c) The term "pre-competitive development activity" means the translation of industrial research findings into a plan, blueprint or design for new, modified or improved products, processes or services whether intended for sale or use, including the creation of a first prototype which would not be put to commercial use. It may further include the conceptual formulation and design of products, processes or services alternatives and initial demonstration or pilot projects, provided that these same projects cannot be converted or used for industrial application or commercial exploitation. It does not include routine or periodic alterations to existing products, production lines, manufacturing process, services, and other ongoing operations even though those alterations may represent improvements.

4. Subsidies to disadvantaged regions within the territory of the country of origin and/or export, granted pursuant to a general framework of regional development, and which would be non-specific if the criteria laid down in Article 4 subparagraphs (2) and (3) were applied to each eligible region concerned, shall not be subject to countervailing measures, provided that:

a) Each disadvantaged region is a clearly designated contiguous geographical area with a definable economic and administrative identity;

b) The region is considered as disadvantaged on the basis of neutral and objective criteria, indicating that the region's difficulties arise out of more than temporary circumstances; such criteria must be clearly spelled out by law, regulation, or other official document, so as to be subject to verification;

c) The criteria mentioned under (b) of this paragraph include a measurement of economic development which shall be based on at least one of the following factors:

i) the income per capita or household income per capita, or GDP per capita, which must not exceed 85 % of the average for the territory of the country of origin or export concerned,

ii) the unemployment rate, which must be at least 110 % of the average for the territory of the country of origin or export concernedas measured over a three-year period; such measurement, however, may be a composite one and may include other factors.

5. For the purpose of this article:

   a) The term "general framework of regional development" means that regional subsidy programmes are part of an internally consistent and generally applicable regional development policy and that regional development subsidies are not granted in isolated geographical points having no, or virtually no, influence on the development of a region;

   b) The term "neutral and objective criteria" means criteria which do not favour certain regions beyond what is appropriate for the elimination or reduction of regional disparities within the framework of the regional development policy. In this regard, regional subsidy programmes shall include ceilings on the amount of subsidy which can be granted to each subsidised project. Such ceilings must be differentiated according to the different levels of development of assisted regions and must be expressed in terms of investment costs or the cost of job creation. Within such ceilings, the distribution of subsidy shall be sufficiently broad and even to avoid the predominant use of a subsidy by, or the granting of disproportionately large amounts of subsidy to, certain enterprises.

   c) This provision shall be applied in the light of the criteria defined in article 4 paragraphs (2) and (3) of this regulation.

6. Subsidies to promote adaptation of existing facilitiesto new environmental requirements imposed by law and/or regulations which result in greater constraints and financial burden on firms, shall not be subject to countervailing measures, provided that the subsidy:

   (a) is a one-time non-recurring measure; and

   (b) is limited to 20 % of the cost of adaptation; and

   (c) does not cover the cost of replacing and operating the subsidised investment, which must be fully borne by firms; and

   (d) Is directly linked to and proportionate to a firm's planned reduction of nuisances and pollution, and does not cover any manufacturing cost savings which may be achieved; and

   (e) Is available to all firms which can adopt the new equipment and/or production processes.

   For the purpose of the first subparagraph the term "existing facilities" means facilities having been in operation for at least two years at the time when new environmental requirements are imposed.

Article 6: Calculation of the amount of the countervailable subsidy

The amount of countervailable subsidies, for the purposes of this regulation, shall be calculated in terms of the benefit conferred on the recipient which is found to exist during the investigation period. Normally this period shall be the most recent accounting year of the beneficiary, but may be any other period of at least six months

prior to the initiation of the investigation for which reliable financial and other relevant data are available.

Article 7: Calculation of benefit to the recipient

For the calculation of benefit to the recipient, the following rules shall apply:

a) Government provision of equity capital shall not be considered to confer a benefit, unless the investment can be regarded as inconsistent with the usual investment practice (including for the provision of risk capital) of private investors in the territory of the country of origin and/or export;

b) A loan by a government shall not be considered to confer a benefit, unless there is a difference between the amount that the firm receiving the loan pays on the government loan and the amount that the firm would pay for a comparable commercial loan which the firm could actually obtain on the market. In this case the benefit shall be the difference between these two amounts;

c) A loan guarantee by a government shall not be considered to confer a benefit, unless there is a difference between the amount that the firm receiving the guarantee pays on a loan guaranteed by the government and the amount that the firm would pay for a comparable commercial loan in the absence of the government guarantee. In this case the benefit shall be the difference between these two amounts adjusted to take account of any differences in fees;

d) The provision of goods or services or purchase of goods by a government shall not be considered to confer a benefit, unless the provision is made for less than adequate remuneration or the purchase is made for more than adequate remuneration. The adequacy of remuneration shall be determined in relation to prevailing market conditions for the product or service in question in the country of provision or purchase (including price, quality, availability, marketability, transportation and other conditions of purchase or sale).

Article 8: General provisions on calculation

1. a) The amount of countervailable subsidies shall be determined per unit of the subsidised product exported to the Community. In establishing this amount the following elements may be deducted from the total subsidy: any application fee or other costs necessarily incurred in order to qualify for, or to obtain the subsidy;

   b) Export taxes, duties or other charges levied on the export of the product to the Community specifically intended to offset the subsidy.
   Where an interested party claims a deduction, it must prove that the claim is justified.

2. Where the subsidy is not granted by reference to the quantities manufactured, produced, exported or transported, the amount of countervailable subsidy shall bedetermined by allocating the value of the total subsidy, asappropriate, over the level of production, sales or exportsof the products concerned during the investigation period.

3. Where the subsidy can be linked to the current or future acquisition of fixed assets, the amount of the countervailable subsidy shall be calculated by spreading the

subsidy across a period which reflects the normal depreciation of such assets in the industry concerned. The amount so calculated which is attributable to the investigation period, including that which derives from fixed assets acquired before this period, shall be allocated in accordance with the provisions under paragraph 2 of this article. Where the assets are non-depreciating, the subsidy shall be valued as an interest-free loan, and be treated in accordance with Article 7 paragraph (b) of this regulation

4. Where a subsidy cannot be linked to the acquisition of fixed assets, the amount of the benefit received during the investigation period shall in principle be attributed to this period, and allocated as described in paragraph 2, of this article unless special circumstances arise justifying attribution over a different period.

Article 9: Determination of injury

1. For the purposes of this Regulation, the term `injury shall, unless otherwise specified, be taken to mean material injury to the Community industry, threat of material injury to the Community industry or material delay of the establishment of such an industry and shall be interpreted in accordance with the provisions of this Article.

2. A determination of injury shall be based on positive evidence and shall involve an objective examination of both:

a) the volume of the subsidised imports and the effect of the subsidised imports on prices in the Community market for like products;

b) and (b) the consequent impact of those imports on producers of such products within the Community industry.

3. With regard to the volume of the subsidised imports, consideration shall be given to whether there has been a significant increase in subsidised imports, either in absolute terms or relative to production or consumption in the Community. Concerning the effect of the subsidized imports on prices, consideration shall be given to whether there has been significant price undercutting of the subsidised imports as compared with the price of a like product of the Community industry, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases which would otherwise have occurred, to a significant degree. No one or more of these factors can necessarily give decisive judgement.

4. Where imports of a product from more than one country are simultaneously subject to countervailing duty investigations, the effects of such imports shall be cumulatively assessed only if it is determined that:

(a) the amount of countervailable subsidies established in relation to the imports from each country is more than de minimis as defined in Article 14(5) and that the volume of imports from each country is not negligible; and

(b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between imported products and the conditions of competition between the imported products and the like community product.

5. The review of the impact of the subsidized imports on the Community industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including: the fact that an industry is still in the process of recovering from the effects of past subsidisation or dumping, the magnitude of the amount of countervailable subsidies, actual and potential decline in sales, profits, output, market share, productivity, return on investments, utilisation of capacity; factors affecting Community prices; actual and potential negative effects on cash flow, inventories, employment, wages, growth and ability to raise capital or investments. This list is not exhaustive, nor can any one or more of these factors necessarily give decisive basis of judgement.

6. It must be demonstrated, from all the relevant evidence presented in relation to paragraph 2, of this article that the subsidised imports are causing injury in the sense of this regulation. Specifically, this shall entail a demonstration that the volume and/or price levels referred to in paragraph 3 have an impact on the Community industry as provided for in paragraph 5, and that this impact exists to a degree which enables it to be considered as important.

7. Known factors other than the subsidised imports which at the same time are causing injury to the Community industry shall also be examined to ensure that injurycaused by these other factors is not attributed to the subsidised imports pursuant to paragraph 6 of this article. Factors which may be considered relevant in this respect include the volume and prices of non-subsidised imports, contraction in demand or changes in the patterns of consumption, restrictive trade practices of third country and community producers as well as competition between these same producers, developments in technology, export performance and productivity of the Community industry.

8. The effect of the subsidised imports shall be assessed in relation to the production of the Community industry of the like product when available data permit the separate identification of the production on the basis of such criteria as the production process, producers' sales and profits. If such separate identification of the production is not possible, the effects of the subsidised imports shall be assessed by examining the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

9. A conclusive determination of a threat of serious material injury shall be based on facts and not merely on allegation, conjecture or remote possibility. The change in circumstances which would create a situation in which the subsidy would cause injury must be clearly foreseen and imminent.

10. In making a determination regarding the existence of a threat of material injury, consideration should be given to, inter alia, such factors as:

(a) the nature of the subsidy or subsidies in question and the trade effects likely to arise therefrom;

(b) a significant rate of increase of subsidised imports into the Community market indicating the likelihood of substantially increased imports;

(c) sufficient freely available capacity of the exporter or an imminent substantial increase in such capacity indicating the likelihood of substantially increased

subsidised exports to the Community, taking into account the availability of other export markets to absorb any additional exports;

(d) whether imports are entering at prices that would, to a significant degree, depress prices or prevent price increases which otherwise would have occurred, and would probably increase demand for further imports; and

(e) Inventories of the product being investigated.

11. No one of the factors listed in paragraph 10 of this article by itself can necessarily give decisive judgement but the totality of the factors considered must lead to the conclusion that further subsidised exports are imminent and that, unless protective action is taken, material injury will occur.

Article 10: Definition of community industry

1. For the purposes of this regulation, the term "Community industry" means Community producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion, as defined in Article 11 paragraph 8 of this regulation, of the total Community production of those products, except that:

2. without prejudice to the provisions of the above paragraph, when producers are linked to the exporters or importers or are themselves importers of the allegedly subsidised product, the term "Community industry" may be interpreted as referring to the rest of the producers;

3. In exceptional circumstances the territory of the Community may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if:

a) the producers within such a market sell all oralmost all of their production of the product inquestion in that market;

b) the demand in that market is not to any substantial degree supplied by producers of the product inquestion located elsewhere in the Community.

4. In the circumstances indicated in paragraph 3 of this article, injury may be found to exist even where a major portion of the total Community industry is not injured, provided there is a concentration of subsidised imports into such an isolated market and provided further that the subsidised imports are causing injury to the producers of all or almost all of the production within such a market.

5. For the purpose of paragraph 1, of this article, producers shall be considered to be related to exporters or importers only if:

a) one of them directly or indirectly controls the other; or

b) both of them are directly or indirectly controlled by a third party; or

c) together they directly or indirectly control a third person, provided that there are grounds for believing or suspecting that the effect of the relationship is

such as to cause the producer concerned to behave differently from non-related producers.

6. For the purpose of this paragraph, one producer shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

7. Where the Community industry has been interpreted as referring to the producers in a certain region, the exporters or the government granting subsidies shall be given an opportunity to offer undertakings pursuant to Article 14 of this regulation in respect of the region concerned. In such cases, when evaluating the Community interest of the measures, special account shall be taken of the interest of the region. If an adequate undertaking is not offered promptly or if the situations set out in Article 14 paragraphs (9) and (10) apply, a provisional or definitive countervailing duty may be imposed in respect of the Community as a whole. In such cases the duties may, if practicable, be limited to specific producers or exporters.

8. Provisions of Article 9 paragraph (8) shall apply to this article.

Article 11: Initiation of Proceedings

1. Subject to paragraph 10 of this article, an investigation to determine the existence, degree and effect of any alleged subsidy shall be initiated upon a written complaint by any natural or legal person, or any association not having legal personality, acting on behalf of the Community industry.

2. The complaint may be submitted to the Commission, or to a Member State, which shall forward it to the Commission. The Commission shall send Member States a copy of any complaint it receives. The complaint shall be deemed to have been lodged on the first working day following its delivery to the commission by registered mail or the issuing of an acknowledgement of receipt by the Commission.Where, in the absence of any complaint, a Member State is in possession of sufficient evidence of subsidisation and of resultant injury to the Community industry, it shall immediately communicate such evidence to the Commission.

3. A complaint, as referred to in paragraph 1 of this article, shall include sufficient evidence of the existence of countervailable subsidies (including, if possible, their amount), injury and a causal link between the allegedly subsidised imports and the alleged injury. The complaint shall contain such information as is reasonably available to the complainant on the following:

a) the identity of the complainant and a description of the volume and value of the Community production of the like product by the complainant. Where a written complaint is made on behalf of the Community industry, the complaint shall identify the industry on behalf of whichthe complaint is made by a list of all known Community producers of the like product (or associations of Community producers of the like product) and, to the extent possible, a description of the volume and value of Community production of the like product accounted for by such producers;

b) a comprehensive description of the allegedly subsidised product, the names of the country or countries of origin and/or export in question, the identity of each

known exporter or foreign producer and a list of known persons importing the product in question;

c) Evidence with regard to the existence, amount, nature and countervailability of the subsidies in question;

d) information on changes in the volume of the allegedly subsidised imports, the effect of those imports on prices of the like product in the Community market and the consequent impact of the imports on the Community industry, as demonstrated by relevant factors and indices having a bearing on the state of the Community industry, such as those listed in Article 9 paragraphs (3) and (5).

4. The Commission shall, as far as possible, examine the accuracy and adequacy of the evidence provided in the complaint, in order to determine whether there is sufficient evidence to justify the initiation of an investigation.

5. An investigation may be initiated in order to determine whether or not the alleged subsidies are specific as defined in Article 4 paragraphs (2) and (3).

6. An investigation may also be initiated in respect of non countervailable subsidies as defined in article 5 paragraphs (2), (3) or (4) in order to determine whether the requirements therein stated are met.

7. If a subsidy is granted under a subsidy programme which before implementation had been brought to the attention of the Subsidy and Countervailing Measures Committee of the WTO in accordance with article 8 of the agreement on subventions and for which the committee was unable to establish that it does not meet the conditions set in the said article, an investigation can be initiated in respect of such subsidy only if a violation of article 8 of the said agreement is established by the competent dispute settlement body of the WTO or by arbitration as stated in article 8(5) of the said agreement.

8. An investigation may also be initiated in respect of measures of the type listed in Annex IV, to the extent that they contain an element of subsidy as defined in Article 3, in order to determine whether the measures in question fully conform to the provisions of the said Annex.

9. An investigation shall not be initiated pursuant to paragraph 1 of this article unless it has been determined, on the basis of an examination as to the degree of support for, or opposition to, the complaint expressed by Community producers of the like product, that the complaint has been made by or on behalf of the Community industry. The complaint shall be considered to have been made by or on behalf of the Community industry if it is supported by those Community producers whose collective output constitutes more than 50 % of the total production of the like product produced by that portion of the Community industry expressing either support for or opposition to the complaint. However, no investigation shall be initiated when Community producers expressly supporting the complaint account for less than 25 % of total production of the like product produced by the Community industry.

10. The authorities shall, unless a decision has been made to initiate an investigation, avoid any publicising of the complaint seeking the initiation of an investigation. However, as soon as possible after receipt of a properly documented

complaint pursuant to this Article, and in any event before the initiation of an investigation, the Commission shall notify the country of origin and/or export concerned, which shall be invited for consultations with the aim of clarifying the situation as to matters referred to in paragraph 2 of this article and arriving at a mutually agreed solution.

11. If under special circumstances, the Commission decides to initiate an investigation without having received a written complaint by or on behalf of the Community industry for the initiation of such investigation, this shall be done on the basis of sufficient evidence of the existence of countervailable subsidies, injury and causal link, as described in paragraph 2, to justify such initiation.

12. The evidence both of subsidies and of injury shall be considered simultaneously in order to decide on whether or not to initiate an investigation. A complaint shall be rejected where there is insufficient evidence of either countervailable subsidies or of injury to justify proceeding with the case. Proceedings shall not be initiated against countries whose imports represent a market share of below 1%, unless such countries collectively account for 3% or more of Community consumption.

13. A complaint may be withdrawn prior to initiation of the investigation, in which case it shall be considered not to have been lodged.

14. Where after consultation, it is apparent that there is sufficient evidence to justify initiating proceedings, the Commission shall do so within 45 days of the lodging of the complaint and shall publish a notice in the Official Journal of ECOWAS. Where insufficient evidence has been presented, the complainant shall, after consultation, be so informed within 45 days of the date on which the complaint is lodged with the Commission.

15. The notice of initiation of the proceedings shall announce the initiation of an investigation, indicate the product and countries concerned, give a summary of the information received, and provide that all relevant information is to be communicated to the Commission.It shall state the periods within which interested parties may make themselves known, present their views in writing and submit information, if such views and information are to be taken into account during the investigation. It shall also state the period within which interested parties may apply to be heard by the Commission in accordance with Article 12 paragraph(5) of this regulation.

16. The Commission shall advise the exporters, importers and representative associations of importers or exporters known to be concerned, as well as the country of origin and/or export and the complainants, of the initiation of the proceedings and, with due regard to the protection of confidential information, provide the full text of the written complaint referred to in paragraph 1 of this article to the known exporters and to the authorities of the country of origin and/or export, and make it available upon request to other interested parties involved. Where the number of exporters involved is particularly high, the full text of the written complaint may instead be provided only to the authorities of the country of origin and/or export or to the relevant trade association.

17. A countervailing duty investigation shall not hinder customs clearance operations.

Article 12: Investigation

1. Following the initiation of the proceedings, the Commission, acting in cooperation with the Member States, shall commence an investigation at Community level. Such investigation shall cover both subsidisation and injury, and these shall be investigated simultaneously.For the purpose of a representative finding, an investigation period shall be selected which, in the case of subsidisation shall, normally, cover the investigation period provided for in Article 6 of this regulation. Information relating to a period subsequent to the investigation period shall not, normally, be taken into account.

2. Parties receiving questionnaires used in a countervailing duty investigation shall be given at least 30 days to reply. The time limit for exporters shall be counted from the date of receipt of the questionnaire, which for this purpose shall be deemed to have been received one week from the day on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the country of origin and/or export. An extension to the 30-day period may be granted, due account being taken of the time limits of the investigation, provided that the party shows due cause for such extension, in terms of its particular circumstances.

3. The Commission may request Member States to supply information, and Member States shall take whatever steps are necessary in order to give effect to such requests. They shall send to the Commission the information requested together with the results of all inspections, checks or investigations carried out.Where this information is of general interest or where its transmission has been requested by a Member State, the Commission shall forward it to the Member States, provided it is not confidential, in which case a non-confidential summary shall be forwarded.

4. The Commission may request Member States to carry out all necessary checks and inspections, particularly amongst importers, traders and Community producers, and to carry out investigations in third countries, provided that the firms concerned give their consent and that the government of the country in question has been officially notified and raises no objection. Member States shall take whatever steps are necessary in order to give effect to such requests from the Commission.Officials of the Commission shall be authorised, if the Commission or a Member State so requests, to assist theofficials of Member States in carrying out their duties.

5. Interested parties which have made themselves known in accordance with the second subparagraph of Article 11 paragraph (15), shall be heard if they have, within the period prescribed in the notice published in the Official Journal of ECOWAS, made a written request for a hearing showing that they are an interested party likely to be affected by the result of the proceedings and that there are particular reasons why they should be heard.

6. Opportunities shall, on request, be provided for the importers, exporters and the complainants, which have made themselves known in accordance with the second subparagraph of Article 11 paragraph(15), and the government of the country of origin and/or export, to meet those parties having adverse interests, so that opposing views may be presented and rebuttal arguments offered. The provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties. There shall be no obligation on any party to attend a meeting, and failure to do so shall not be prejudicial to that party's case. Oral information provided under

this paragraph shall be taken into account by the Commission in so far as it is subsequently confirmed in writing.

7. The complainants, the government of the country of origin and/or export, importers and exporters and their representative associations, users and consumer organisations, which have made themselves known in accordance with the second sub paragraph of Article 11 paragraph (15), may, upon written request, inspect all information made available to the Commission by any party to an investigation, as distinct from internal documents prepared by the authorities of the Community or its Member States, which is relevant to the presentation of their cases and is not confidential in the sense of Article 30, and is used in the investigation. Such parties may respond to such information and their comments shall be taken into consideration wherever they are sufficiently substantiated in the response.

8. Except in circumstances provided for in Article 29, the information which is supplied by interested parties and upon which findings are based shall be examined for accuracy as far as possible.

9. For proceedings initiated pursuant to Article 11 paragraph (13) of this regulation, an investigation shall, whenever possible, be concluded within one year. In any event, such investigations shall in all cases be concluded within 13 months of their initiation, in accordance with the findings made pursuant to Article 14 of this regulation for undertakings or the findings made pursuant to Article 15 for definitive action.

10. Throughout the investigation, the Commission shall afford the country of origin and/or export a reasonable opportunity to continue consultations with a view to clarifying the factual situation and arriving at a mutually agreed solution.

Article 13: Provisional measures

1. Provisional duties may be imposed if:

   a) an investigation has been initiated in accordance with Article 11 of this regulation;

   b) a notice has been published to that effect and interested parties have been given adequate opportunities to submit information and make comments in accordance with Article 11, paragraph (15) of this regulation;

   c) a provisional affirmative determination has been made that the imported product benefits from countervailable subsidies and are of consequent injury to the Community industry; and

   d) the Community interest calls for intervention to prevent such an injury.

2. The provisional duties shall be imposed no earlier than 60 days from the initiation of the proceedings but no later than nine months from the initiation of the proceedings.

3. The amount of the provisional countervailing duty shall not exceed the total amount of countervailable subsidies as provisionally established but it should be less than this amount, if such lesser duty would be adequate to remove the injury to the Community industry.

4. The Commission shall take provisional action after consultation or, in cases of extreme urgency, after informing the Member States. In this latter case, consultations shall take place 10 days, at the latest, after notification to the Member States of the action taken by the Commission.

5. Where a Member State requests immediate intervention by the Commission and where the conditions of the first and second subparagraphs of paragraph 1 are met, the Commission shall, within a maximum of five working days from receipt of the request, decide whether a provisional countervailing duty shall be imposed.

6. Provisional countervailing duties shall be imposed for a maximum period of four months.

Article14: Undertakings

1. An investigation may be closed without the imposition of provisional or definitive duties subject to the voluntary and satisfactory undertakings under which:

a) the country of origin and/or export agrees to eliminate or limit the subsidy or take other measures concerning its effects; or

b) the exporter undertakes to revise its prices or to cease exports to the area in question as long as such exports benefit from countervailable subsidies, so that the Commission, after consultation is satisfied that the injurious effect of the subsidies is thereby eliminated. Price increases under such undertakings shall not be higher than is necessary to offset the amount of countervailable subsidies, and should be less than the amount of countervailable subsidies if such increases would be adequate to remove the injury to the Community industry.

2. Undertakings may be suggested by the Commission, but no country or exporter shall be obliged to enter into such an undertaking. The fact that countries or exporters do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice consideration of the case. However, it may be determined that a threat of injury is more likely to be realised if the subsidised imports continue. Undertakings shall not be sought or accepted from countries or exporters unless a provisional affirmative determination of subsidisation and injury caused by such subsidisation has been made. Save in exceptional circumstances, undertakings may not be offered later than the end of the period during which representations may be made pursuant to Article 31 paragraph (5) of this regulation.

3. Undertakings offered need not be accepted if theacceptance is considered impractical, such as where the number of actual or potential exporters is too great, or for other reasons, including reasons of general policy. The exporter and/or the country of origin and/or export concerned may be provided with the reasons for which it is proposed to reject the offer of an undertaking and may be given an opportunity to make comments thereon. The reasons for rejection shall be set out in the definitive decision.

4. Parties which offer an undertaking shall be required to provide a non-confidential version of such undertaking, so that it may be made available to interested parties to the investigation.

5. Where undertakings are, after consultation, accepted, and where there is no objection raised within the Advisory Committee, the investigation shall be terminated. In all other cases, the Commission shall submit to the Council forthwith a report on the results of the consultation, together with a proposal that the investigation be terminated.

6. If the undertakings are accepted, the investigation of subsidisation and injury shall normally be completed. In such a case, if a negative determination of subsidisation or injury is made, the undertaking shall automatically lapse, except in cases where such a determination is due in large part to the existence of an undertaking. In such cases, it may be required that an undertaking be maintained for a reasonable period. In the event that an affirmative determination of subsidisation and injury is made, the undertaking shall continue consistent with its modalities and the provisions of this Regulation.

7. The Commission shall require any country or exporter from whom undertakings have been accepted to provide, periodically, information relevant to the fulfilment of such undertaking, and to permit verification of pertinent data. Non-compliance with such requirements shall be construed as a breach of the undertaking.

8. Where undertakings are accepted from certain exporters during the course of an investigation, they shall, for the purpose of Articles 19, 20, 21 and 23, be deemed to take effect from the date on which the investigation is concluded for the country of origin and/or export.

9. In case of breach or withdrawal of undertakings by any party to the undertaking, a definitive duty shall be instituted in accordance with article 15 on the basis of facts established during the investigation which led to the undertaking, provided that the said investigation is completed with a final determination on the subsidies and injury and the exporter concerned and/or country of origin and/or export has, except in the case of withdrawal of the undertaking, been given an opportunity to comment.
10. A provisional duty may, after consultation, be imposed in accordance with Article 13 of this regulation on the basis of the bestinformation available, where there is reason to believe that an undertaking is being breached or in case of breach or withdrawal of an undertaking where the investigation which led to the undertaking has not been concluded.

Article 15: Termination of proceedings without imposing measures

1. Where the complaint is withdrawn, the proceedings may be terminated unless such termination would not be in the Community interest.

2. Where, after consultation, protective measures are unnecessary, the investigation or proceedings shall be terminated. In all other cases, the Commission shall submit a report on the results of the consultation, together with proposal that the proceedings be terminated. The proceedings shall be deemed terminated if, within one month, the Commission has not decided otherwise.

3. There shall be immediate termination of the proceedings where it is determined that the amount of countervailable subsidies is de minimis, in accordance with paragraph 5 of this article, or where the volume of subsidised imports, actual or potential, or the injury, is negligible.

4. For proceedings initiated pursuant to Article 11 paragraph 14 of this regulation, injury shall normally be regarded as negligible where the market share of the imports is less than the amounts set out in Article 11 paragraph 12. With regard to investigations concerning imports from developing countries, the volume of subsidised imports shall also be considered negligible if it represents less than 4 % of the total imports of the like product in the Community, unless imports from developing countries whose individual shares of total imports represent less than 4 % collectively account for more than 9 % of the total imports of the like product in the Community.

5. The amount of countervailable subsidies shall be considered de mimimis when it is below 1% ad valorem, except in the following cases:

a) During investigations on imports originating from developing countries, the level below which it is considered as de minimis is 2% ad valorem;

b) For developing countries that are members of the WTO and are referred to in Annex VII to the Agreement on subsidies as well as developing countries members of the WTO which have removed all export subsidies as defined in article 4 paragraph (4) (a) of this regulation, the level below which the amount shall be considered as de minimis is 3% ad valorem; where the application of this provision is dependent upon the removal of export subsidies, it shall apply from the date this removal is notified to the WTO Committee on Subsidies and Countervailing Measures so long as the developing country concerned does not grant export subsidies. This provision shall expire eight years after the entry into force of the Agreement on the WTO, provided the investigation is terminated where the amount of countervailable subsidy is below the level of minimis applicable to individual exporters who shall remain subject to proceeding and can be re-investigated during a review conducted for the country concerned in accordance with article 19 and 20.

Article 16: Imposition of definitive duties

1. Where the facts as finally established show the existence of countervailable subsidies and injury caused thereby, and the Community interest calls for intervention in accordance with Article 32 of this regulation, a definitive countervailing duty shall be imposed by the Council of Ministers, deciding by a simple majority on a proposal submitted by the Commission after consultation of the Advisory Committee, unless there has been a removal of the subsidy or subsidies or it has been proven that such subsidies does not confer any benefit to the exporters concerned. Where provisional duties are in force, a proposal regarding definitive action shall be submitted no later than one month before the expiry of such duties. The amount of the countervailing duty shall not exceed the amount of countervailable subsidies established and found to benefit exporters but it should be less than the total amount of countervailable subsidies if such lesser duty would be adequate to remove the injury to the Community industry.

2. A countervailing duty shall be imposed in the appropriate amounts in each case, on a non-discriminatory basis, on imports of a product from all sources found to benefit from countervailable subsidies and causing injury, except for imports from those sources from which undertakings under the terms of this Regulation have been

accepted. The regulation imposing the duty shall specify the duty for each supplier, or, if that is impracticable, the supplying country concerned.

3. When the Commission has limited its examination in accordance with Article 28 of this regulation, any countervailing duty applied to imports from exporters or producers which have made themselves known in accordance with Article 28 but were not included in the examination shall not exceed the weighted average amount of countervailable subsidies established for the parties in the sample. For the purpose of this paragraph, the Commission shall disregard any zero and de minimis amounts of countervailable subsidies and amounts of countervailable subsidies established in the circumstances referred to in Article 29 of this regulation. Individual duties shall be applied to imports from any exporter or producer for which an individual amount of subsidisation has been calculated as provided for in Article 28 of this regulation.

Article 17: Retroactivity

1. Provisional measures and definitive countervailing duties shall be applied only to products which enter free circulation after the time when the measure taken pursuant to Article 13 paragrapg (1) or Article 16 paragraph (1) of this regulation, as the case may be, enters into force, subject to the exceptions set out in this Regulation.

2. Where a provisional duty has been applied and the facts as finally established show the existence of countervailable subsidies and injury, the Council shall decide, irrespective of whether a definitive countervailing duty is to be imposed, what proportion of the provisional duty is to be definitively collected.For this purpose, 'injury' shall not include material delay of the establishment of a Community industry, nor threat of material injury, except where it is found that this would, in the absence of provisional measures, have developed into material injury. In all other cases involving such threat or delay, any provisional amounts shall be released and definitive duties can only be imposed from the date on which a final determination of threat or material delay is made.

3. If the definitive countervailing duty is higher than the provisional duty, the difference shall not be collected. If the definitive duty is lower than the provisional duty, the duty shall be recalculated. Where a final determination is negative, the provisional duty shall not be confirmed.

4. A definitive countervailing duty may be levied on products which were entered for consumption no more than 90 days prior to the date of application of provisional measures but not prior to the initiation of the investigation, provided the imports areregistered in accordance with article 24(5) and that the Commission has given importers the opportunity to comment and:

a) there are critical circumstances where for the subsidised product in question, an injury which is difficult to repair is caused by massive imports in a relatively short period of a product benefiting from countervailable subsidies under the terms of this Regulation; and

b) it is deemed necessary, in order to preclude the recurrence of such injury, to impose countervailing duties retroactively on those imports.

5. In cases of breach or withdrawal of undertakings, definitive duties may be levied on goods entered for free circulation no more than 90 days before the application of provisional measures, provided that the imports have been registered in accordance

with Article 25 paragraph (5) of this regulation and that any such retroactive assessment shall not apply to imports entered before the breach or withdrawal of the undertaking.

Article18: Duration

A countervailing measure shall remain in force only as long as, and to the extent that, it is necessary to counteract the countervailable subsidies which are causing injury.

Article 19: Review of expiry of measures

1. A definitive countervailing measure shall expire five years from its imposition or five years from the date of the most recent review which has covered both subsidisation and injury, unless it is determined in a review that the expiry would likely lead to a continuation or recurrence of subsidisation and injury. Such an expiry review shall be initiated on the initiative of the Commission, or upon a request made by or on behalf of Community producers, and the measure shall remain in force pending the outcome of such review.

2. An expiry review shall be initiated where the request contains sufficient evidence that the expiry of the measures would be likely to result in a continuation or recurrence of subsidisation and injury. Such likelihood may, for example, be indicated by evidence of continued subsidisation and injury or evidence that the removal of injury is partly or solely due to the existence of measures or evidence that the circumstances of the exporters, or market conditions, are such that they would indicate the likelihood of further injurious subsidisation.

3. In carrying out investigations under this Article, the exporters, importers, the country of origin and/or export and the Community producers shall be provided with the opportunity to amplify, rebut or comment on the matters set out in the review request, and conclusions shall be reached with due account taken of all relevant and duly documented evidence presented in relation to the question as to whether the expiry of measures would be likely, or unlikely, to lead to the continuation or recurrence of subsidisation and injury.

4. A notice of impending expiry shall be published by the Commission in the Official Journal of the Community and each member state in her official journal at an appropriate time in the final year of the period of application of the measures as defined in this Article. Thereafter, the Community producers shall, no later than three months before the end of the five-year period, be entitled to lodge a review request in accordance with paragraph 2 of this article. A notice announcing the actual expiry of measures under this Article must also be published.

5. The need for the continued imposition of measures may also be reviewed, where warranted, on the initiative of the Commission or at the request of a Member State or, provided that a reasonable period of time of at least one year has elapsed since the imposition of the definitive measure, upon a request by any exporter, importer or by the Community producers or the country of origin and/or export which contains sufficient evidence substantiating the need for such an interim review.

6. An interim review shall be initiated where the request contains sufficient evidence that the continued imposition of the measure is no longer necessary to offset the

countervailable subsidy and/or that the injury would be unlikely to continue or recur if the measure were removed or varied, or that the existing measure is not, or is no longer, sufficient to counteract the countervailable subsidy which is causing injury.

7. Where countervailing duties imposed are less than the amount of countervailable subsidies found, an interim review may be initiated if the Community producers submit sufficient evidence that the duties have not or have not sufficiently modified the resale price of the product imported into the Community. If the investigation proves the allegations to be correct, counter-vailing duties may be increased to achieve the price increase required to remove injury, provided that theincreased duty level does not exceed the amount of the countervailable subsidies.

8. In carrying out investigations pursuant to this Article, the Commission may, inter alia, consider whether the circumstances with regard to subsidisation and injury have changed significantly, or whether existing measures are achieving the intended results in removing the injury previously determined under Article 9 of this regulation. In these respects, account shall be taken in the final determination of all relevant and duly documented evidence.

Article 20: Accelerated Reviews

Any exporter whose exports are subject to a definitive countervailing duty but which was not individually investigated during the original investigation for reasons other than a refusal to cooperate with the Commission, shall be entitled, upon request, to an accelerated review in order that the Commission may promptly establish an individual countervailing duty rate for that exporter. Such a review shall be initiated after consultation of the Advisory Committee and after Community producers have been given an opportunity to comment.

Article 21: Refunds

1. Notwithstanding Article 19 of this regulation, an importer may request reimbursement of duties collected where it is shown that the amount of countervailable subsidies, on the basis of which duties were paid, has been either eliminated or reduced to a level which is below the level of the duty in force.

2. To obtain a refund of countervailing duties, the importer shall submit an application to the Commission. The application shall be submitted via the Member State in the territory of which the products were released for free circulation, within six months of the date on which the amount of the definitive duties to be levied was duly determined by the competent authorities or of the date on which a decision was made definitively to collect the amounts secured by way of provisional duty. Member States shall forward the request to the Commission forthwith.

3. An application for refund shall be considered to be duly supported by evidence only where it contains precise information on the amount of refund of countervailing duties claimed and all customs documentation relating to the calculation and payment of such amount. It shall also include evidence, for a representative period, the amount of countervailable subsidies for the exporter or producer to which the duty applies. In cases where the importer is not associated with the exporter or producer concerned and such information is not immediately available, or where the exporter or producer is unwilling to release it to the importer, the application shall contain a statement from the exporter or producer that the amount of countervailable subsidies has been reduced or

eliminated, as specified in this Article, and that the relevant supporting evidence will be provided to the Commission. Where such evidence is not forthcoming from the exporter or producer within a reasonable period of time the application shall be rejected.

4. The Commission shall, after consulting CET Management Committee, decide whether and to what extent the application should be granted, or it may decide at any time to initiate an interim review, whereupon the information and findings from such review, carried out in accordance with the provisions applicable for such reviews, shall be used to determine whether and to what extent a refund is justified. Refunds of duties shall normally take place within 12 months and in no circumstances more than 18 months after the date on which a request for a refund, duly supported by evidence, has been made by an importer of the product subject to the countervailing duty. The payment of any refund authorised should normally be made by Member States within 90 days of the decision referred to in the first subparagraph.

Article 22: General provisions on reviews and refunds

1. The relevant provisions of articles 11 and 12 of this regulation, excluding those relating to time limits shall apply to any review carried out pursuant to articles, 19, 20 and 21. Such review shall be carried out expeditiously and shall normally be concluded within 12 months of the date of initiation of the review.

2. Reviews pursuant to article 19, 20, and 21 of this regulation shall be conducted by the Commission after consulting the CET Management Committee. Where warranted by reviews, measures shall be repealed or maintained pursuant to Article 19 or repealed, maintained or amended in accordance with articles 20 and 21 by the Community's institution responsible for their adoption. Where measures are repealed for the benefit of individual exporters but not for the country as a whole, such exporters shall remain subject to proceeding and may be reinvestigated in any subsequent review carried out for the said country pursuant to this article.

3. Where a review of measures pursuant to Article 20 of this regulation is in progress at the end of the period of application of measures as defined in Article 19, the measures shall also be reviewed under the provisions of Article 19.

4. In all review or refund investigations carried out pursuant to Articles 19 to 22, the Commission shall, provided that circumstances have not changed, apply the same methodology as in the investigation which led to the duty, with due account being taken of Articles , 6, 7, 8 and 28.

Article23: Circumvention

1. Countervailing duties imposed pursuant to this Regulation may be extended to imports from third countries of like products, or parts thereof, when circumvention of the measures in force is taking place. Circumvention shall be defined as a change in the pattern of trade between third countries and the Community which stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty, and where there is evidence that the remedial effects of the duty are being undermined in terms of the prices and/or quantities of the like products and that the imported like product and/or parts thereof still benefit from the subsidy.

2. Investigations shall be initiated pursuant to this Article where the request contains sufficient evidence regarding the factors set out in paragraph 1. Investigation shall be initiated, after consultation of the CET Management Committee, by a Commission regulation which shall also instruct the customs authorities to make imports subject to registration in accordance with article 25 paragraph (5) of this regulation or to demand guarantees. Investigations shall be carried out by the Commission, which may be assisted by customs authorities, and shall be concluded within nine months. When the facts as finally ascertained justify the extension of measures, this shall be done by the Commission from the date on which registration was imposed pursuant to Article 24(5) or on which guarantees were requested. The relevant procedural provisions of this regulation with regard to initiations and the conduct of investigations shall applypursuant to this article.

3. Products shall not be subject to registration pursuant to Article 25 paragraph (5) of this regulation or measures where they are accompanied by a customs certificate declaring that the importation of the goods does not constitute circumvention. These certificates may be issued to importers, upon written application following authorization by decision of the Commission after consultation of the CET Management Committee, and they shall remain valid for the period, and under the conditions, set down therein.

4. Nothing in this Article shall preclude the normal application of the provisions in force concerning customs duties.

Article 24: General provisions

1. Provisional or definitive countervailing duties shall be imposed by a regulation and collected by Member States in the form, at the rate specified and according to the other criteria laid down in the regulation imposing such duties. Such duties shall also be collected independently of the customs duties, taxes and other charges normally imposed on imports. No product shall be subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation arising from dumping or from export subsidisation

2. Regulations imposing provisional or definitive countervailing duties, and regulation or decisions onaccepting undertakings or terminating investigations or proceedings, shall be published by the Commission in theOfficial Journal of the Community and by each member state in her official journal. Such regulations or decisions shall contain in particularand with due regard to the protection of confidentialinformation, the names of the exporters, if possible, or ofthe countries involved, a description of the product and asummary of the facts and considerations relevant to thesubsidy and injury determinations. In each case, a copy ofthe decision or regulation shall be sent to known interested parties.The provisions of this paragraph shall applymutatismutandisto reviews.

3. In the Community interest, measures imposed pursuant to this regulation may be suspended by a decision of the Commission for a period of nine months. The suspension may be extended for a further period, not exceeding one year. Measures may only be suspended where market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of the suspension, and provided that the Community industry has been given an opportunity to comment and these comments have been taken into account. Measures may, at any time and after consultation, be reinstated if the reason for suspension is no longer justified.

4. The Commission may direct the customs authorities' totake the appropriate steps to register imports, so thatmeasures may subsequently be applied against thoseimports from the date of such registration. Imports may be made subject to registration following a request fromthe Community industry which contains sufficientevidence to justify such action. Registration shall be introduced by a Commission regulation which shall specify thepurpose of the action and, if appropriate, the estimatedamount of possible future liability. Imports shall not bemade subject to registration for a period longer than ninemonths.

5. Member States shall report to the Commission every month on the import of products subject to investigation and to measures, and on the amount of duties collected pursuant to this regulation.

Article25: Consultations

1. Any consultations provided for in this regulation, except those referred to in Article 11 paragraph (9) and article 12, paragraph (10) of this regulation, shall take place within the CET Management Committee. Consultations shall be held immediately on request by a Member State or on the initiative of the Commission, and in any event within a period of time which allows the time limits set by this regulation to be adhered to.

2. The CET Management Committee shall meet when convened by its chairman. He shall provide the Member States, as promptly as possible, with all relevant information.

3. Where necessary, consultation may be in writing only; in that event, the Commission shall notify the Member States and shall specify a period within which they shall be entitled to express their opinions or to request an oral consultation which the chairman shall arrange, provided that such oral consultation can be held within a period of time which allows the time limits set by this regulation to be adhered to.

4. Consultation shall cover, in particular:

(a) the existence of countervailable subsidies and the methods of establishing their amount;
(b) the existence and extent of injury;
(c) the causal link between the subsidised imports and injury;
(d) the measures which, in the circumstances, are appropriate to prevent or remedy the injury caused by the countervailable subsidies and the ways and means of putting such measures into effect.

Article 26: Verification visits

1. The Commission shall, where it considers it appropriate, carry out visits to examine the records of importers, exporters, traders, agents, producers, trade associations and organisations to verify information provided on subsidisation and injury. In the absence of a proper and timely reply a verification visit may not be carried out.

2. The Commission may carry out investigations in third countries as required, provided that it obtains the agreement of the firms concerned, that it notifies the

country in question and that the latter does not object to the investigation. As soon as the agreement of the firms concerned has been obtained the Commission must notify the country of origin and/or export of the names and addresses of the firms to be visited and the dates agreed.

3. The firms concerned shall be advised on the nature of the information to be verified during verification visits and of any further information which needs to be provided during such visits, though this should not preclude requests made during the verification for further details to be provided in the light of information obtained.
4. In investigations carried out pursuant to paragraphs l, 2 and 3 of this article, the Commission shall be assisted by officials of those Member States who so request.

Article 27: Sampling

1. In cases where the number of complainants, exporters or importers, types of product or transactions is large, the investigation may be limited to:

(a) a reasonable number of parties, products or transactions by using samples which are statistically valid on the basis of information available at the time of the selection; or

(b) the largest representative volume of the production, sales or exports which can reasonably be investigated within the time available.

2. The finalselection of parties, types of products or transactions made pursuant to this Article shall rest with the Commission, though preference shall be given to choosing a sample in consultation with, and with the consent of, the parties concerned, provided that such parties make themselves known and make sufficient information available, within three weeks of initiation of the investigation, to enable a representative sample to be chosen.

3. In cases where the examination has been limited in accordance with this Article, an individual amount of countervailable subsidisation shall, nevertheless, be calculated for any exporter or producer not initially selected who submits the necessary information within the time limits provided for in this regulation, except where the number of exporters or producers is so large that individual examinations would be unduly burdensome and would prevent completion of the investigation in good time.

4. Where it is decided to sample and there is a degree of non-cooperation by some or all the parties selected which is likely to materially affect the outcome of the investigation, a new sample may be selected. However, if a material degree of non-cooperation persists or there is insufficient time to select a new sample, the relevant provisions of Article 29 of this regulation shall apply.

Article 28: Non cooperation

1. In cases in which any interested party refuses access to, or otherwise does not provide, the necessary information within the time limits provided in this regulation, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of the facts available.

2. Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available. Interested parties should be made aware of the consequences of non-cooperation.

3. Where the information submitted by an interested party is not ideal in all respects it should nevertheless not be disregarded, provided that any deficiencies are not such as to cause undue difficulty in arriving at a reasonably accurate finding and that the information is appropriately submitted in good time and is verifiable, and that the party has acted to the best of its ability.

4. If evidence or information is not accepted, the supplying party shall be informed forthwith of the reasons thereof and shall be granted an opportunity to provide further explanations within the time limit specified. If the explanations are considered unsatisfactory, the reasons for rejection of such evidence or information shall be disclosed and given in published findings.

5. If determinations, including those regarding the amount of countervailable subsidies, are based on the provisions of paragraph 1, including the information supplied in the complaint, it shall, where practicable and with due regard to the time limits of the investigation, be checked by reference to information from other independent sources which may be available, such as published price lists, official import statistics and customs returns, or information obtained from other interested parties during the investigation.

6. If an interested party does not cooperate, or cooperates only partially, so that relevant information is thereby withheld, the result may be less favourable to the party than if it had cooperated.

Article 29: Confidentiality

1. Any information which is by nature confidential (for example, because its disclosure would be of significant competitive advantage to a competitor or would have a significantly adverse effect upon a person supplying the information or upon a person from whom he has acquired the information) or which is provided on a confidential basis by parties to an investigation shall, if good cause is shown, be treated as such by the authorities of the Commission.

2. Interested parties providing confidential information shall be required to furnish non-confidential summaries thereof. Those summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible to summary. In such exceptional circumstances, a statement of the reasons why a summary is not possible must be provided.

3. If it is considered that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information available or to authorise its disclosure in generalised or summary form, such information may be disregarded unless it can be satisfactorily demonstrated from appropriate sources that the information is correct. Requests for confidentiality shall not be arbitrarily rejected.

4. This Article shall not preclude the disclosure of general information by the Community authorities and in particular of the reasons on which decisions taken pursuant to this regulation are based, nor disclosure of the evidence relied on by the

Community authorities in so far as it is necessary to explain those reasons in court proceedings. Such disclosure must take into account the legitimate interests of the parties concerned that their business or governmental secrets should not be divulged.

5. The Commission and the Member States, or the officials of any of them, shall not reveal any information received pursuant to this regulation for which confidential treatment has been requested by its supplier, without specific permission from the supplier. Exchanges of information between the Commission and Member States, or any information relating to consultations made pursuant to Article 26, or consultations described in Articles 11 paragraph (9) and article 12 paragraph (10) of this regulation, or any internal documents prepared by the authorities of the Community or its Member States, shall not be divulged except as specifically provided for in this regulation.

6. Information received pursuant to this regulation shall be used only for the purpose for which it was requested.

Article 30: Disclosure

1. The complainants, importers and exporters and their representative associations, and the country of origin and/or export, may request disclosure of the details underlying the essential facts and considerations on the basis of which provisional measures have been imposed. Requests for such disclosure shall be made in writing immediately following the imposition of provisional measures, and the disclosure shall be made in writing as soon as possible thereafter.

2. The parties mentioned in paragraph 1 of this article may request final information of the essential facts and considerations on the basis of which it is intended to recommend the imposition of definitive measures, or the termination of an investigation or proceedings without the imposition of measures, particular attention being paid to the disclosure of any facts or considerations which are different from those used for any provisional measures.

3. Requests for final information shall be addressed to the Commission in writing and be received, in cases where a provisional duty has been applied, not later than one month after publication of the imposition of that duty. Where a provisional duty has not been applied, parties shall be provided with an opportunity to request final disclosure within time limits set by the Commission.

4. Final disclosure shall be given in writing. It shall be made, with due regard to the protection of confidential information, as soon as possible and, normally, not later than one month prior to a definitive decision or the submission by the Commission of any proposal for final action pursuant to Articles 15 and 16. Where the Commission is not in a position to disclose certain facts or considerations at that time, these shall be disclosed as soon as possible thereafter. Disclosure shall not prejudice any subsequent decision which may be taken by the Commission but where such decision is based on any different facts and considerations, these shall be disclosed as soon as possible.

5. Representations made after final disclosure is given shall be taken into consideration only if received within a period to be set by the Commission in each case, which shall be at least 10 days, due consideration being given to the urgency of the matter.

Article 31: Community interest

1. A determination as to whether the Community interest calls for intervention shall be based on an appreciation of all the various interests taken as a whole, including the interests of the community industry and users and consumers; a determination pursuant to this Article shall only be made where all parties have been given the opportunity to make their views known pursuant to paragraph 2 of this article. In such an examination, the need to eliminate the trade distorting effects of injurious subsidisation and to restore effective competition shall be given special consideration. Measures, as determined on the basis of subsidisation and injury found, may not be applied where the authorities, on the basis of all the information submitted, can clearly conclude that it is not in the Community interest to apply such measures.

2. In order to provide a sound basis on which the authorities can take account of all views and information in the decision as to whether or not the imposition of measures is in the Community interest, the complainants, importers and their representative associations, representative users and representative consumer organisations may, within the time limits specified in the notice of initiation of the countervailing duty investigation, make themselves known and provide information to the national CET Management Committee and the Commission. Such information, or appropriate summaries thereof, shall be made available to the other parties specified in this paragraph, and they shall be entitled to respond to such information.

3. The parties which have acted in conformity with paragraph 2 of this article may request a hearing. Such requests shall be granted when they are submitted within the time limits set in paragraph 2, and when they set out the reasons, in terms of the Community interest, why the parties should be heard.

4. The parties which have acted in conformity with paragraph 2 of this article may provide comments on the application of any provisional duties imposed. Such comments shall be received within one month of the application of such measures if they are to be taken into account and they, or appropriate summaries thereof, shall be made available to other parties who shall be entitled to respond to such comments.

5. The Commission shall examine the information which is properly submitted and the extent to which it is representative, and the results of such analysis, together with an opinion on its merits, shall be transmitted to the CET Management Committee. The summary of opinions expressed within the Committee must be taken into account by the Commission in any proposal made pursuant to article 15 and 16 of this regulation.

6. The parties which have acted in conformity with paragraph 2 of this article may request the facts and considerations on which final decisions are likely to be taken to be made available to them. Such information shall be made available to the extent possible and without prejudice to any subsequent decision taken by the Commission or the Council.

7. Information shall only be taken into account where it is supported by actual evidence which substantiates its validity.

Article 32: Relationships between countervailing duty measures and multilateral remedies

If an imported product is made subject to any measures imposed following recourse to the dispute settlement procedures of the Subsidies Agreement, and such measures are appropriate to remove the injury caused by the countervailable subsidies, any countervailing duty imposed with regard to that product shall immediately be suspended, or repealed, as appropriate.

Article 33: Final provisions

This regulation shall not preclude the application of:

(a) any special rules laid down in agreements concluded between the Community and third countries;

(b) Community regulations in the area of agriculture and in derogation to all their provisions that may run counter to the imposition of countervailing duties;

(c) waivers special measures, provided that such action does not run counter to obligations under the GATT.

Article 34:

This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

ANNEX I

ILLUSTRATIVE LIST OF EXPORT SUBSIDIES

a) The provision by governments of direct subsidies to a firm or an industry contingent upon export performance.

b) Currency retention schemes or any similar practices which involve a bonus on exports.

c) Internal transport and freight charges on export shipments provided or mandated by governments, on terms more favourable than for domestic shipments.

d) The provision by governments or their agencies either directly or indirectly through government-mandated schemes, of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for provision of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favourable than those commercially available (1) on world markets to their exporters.

e) The full or partial exemption, remission, or deferral specifically related to exports, of direct taxes (2) or social security charges paid or payable by industrial or commercial enterprises (3) which would be granted them specifically in respect of their exports.

f) Special deductions directly related to exports or export performance, over and above those granted in respect of production for domestic consumption, in the calculation of the base on which direct taxes are charged.

g) The exemption or remissionin respect of the production and distribution of exported products, of indirect taxes (4) in excess of those levied in respect of the production of like product when soldfor domestic consumption.

h) The exemption, remission or deferral of prior-stage cumulative indirect taxes (5) on goods or services used in the production of exported products in excess of the exemption, remission or deferral of like prior-stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption; provided, however, that prior-stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption, if the prior-stage cumulative indirect taxes are levied on inputs that are consumed in the production of the exported product (making normal allowance for waste) (6). This item shall be interpreted in accordance with the guidelines on consumption of inputs in the production process contained in Annex II.

i) The remission or drawback of import charges (7) in excess of those levied on imported inputs that are consumed in the production of the exported product (making normal allowance for waste); provided, however, that in particular cases a firm may use a quantity of home market inputs equal to, and having the same quality and characteristics as, the imported inputs as a substitute for them in order to benefit from this provision if the import and the corresponding export operations

both occur within a reasonable time period, not to exceed two years. This item shall be interpreted in accordance with the guidelines on consumption of inputs in the production process contained in Annex II and the guidelines in the determination of substitution drawback systems as export subsidies contained in Annex III.

j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the cost of exported products or of exchange risk programmes, at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes.

k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and other credit terms and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

However, that if a Member of the WTO is a party to an international undertaking on official export credits to which at least 12 original such Members are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original Members), or if in practice a Member of the WTO applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy.

l) Any other charge on the public account constituting an export subsidy in the sense of Article XVI of GATT 1994.

(1)The term commercially available` means that the choice between domestic and imported products is unrestricted and depends only on commercial considerations.

(2) For the purposes of the regulation C/REG..... /...../..13 relative to countervailing duties:

- the term 'direct taxes` shall mean taxes on wages, profits, interests, rents, royalties, and all other forms of income, and taxes on the ownership of real property,

- the term 'import charges` shall mean tariffs, duties, and other fiscal charges not elsewhere enumerated in this note that are levied on imports,

- the term 'indirect taxes` shall mean sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes and all taxes other than direct taxes and import charges,

The term 'prior stage` indirect taxes means taxes levied on goods or services used directly or indirectly in making the product,

- The term 'cumulative` indirect taxes means multi-staged taxes levied where there is no mechanism for subsequent crediting of the tax if the goods or

services subject to tax at one stage of production are used in a succeeding state of production,

- the term 'remission of taxes» refers to the refund or rebate of taxes,

- 'remission or drawback` includes the full or partial exemption or deferral of import charges.

(3) Deferral may not amount to an export subsidy where, for example, appropriate interest charges are collected.

(4) Paragraph (h) of this annex, does not apply to value-added tax systems and border-tax adjustment in lieu thereof; the problem of the excessive remission of value-added taxes is exclusively covered by paragraph (g).

ANNEX II

GUIDELINES ON CONSUMPTION OF INPUTS IN THE PRODUCTION PROCESS (1)

1. Indirect tax rebate schemes can allow for exemption, remission or deferral of prior-stage cumulative indirect taxes levied on inputs that are consumed in the production of the exported product (making normal allowance for waste). Similarly, drawback schemes can allow for the remission or drawback of import charges levied on inputs that are consumed in the production of the exported product (making normal allowance for waste).

2. The illustrative list of export subsidies in Annex I makes reference to the term 'inputs that are consumed in the production of the exported product` in paragraphs (h) and (i). Pursuant to paragraph (h), indirect tax rebate schemes can constitute an export subsidy to the extent that they result in exemption, remission or deferral of prior-stage cumulative indirect taxes in excess of the amount of such taxes actually levied on inputs that are consumed in the production of the exported product. Pursuant to paragraph (i), drawback schemes can constitute an export subsidy to the extent that they result in a remission or drawback of import charges in excess of those actually levied on inputs that are consumed in the production of the exported product. Both paragraphs stipulate that normal allowance for waste must be made in findings regarding consumption of inputs in the production of the exported product. Paragraph (i) also provides for substitution, where appropriate.

3. In examining whether inputs are consumed in the production of the exported product, as part of a countervailing duty investigation pursuant to the regulation C/REG..../.../13 relative to countervailing duties, the Commission must normally proceed on the following basis:

4. Where it is alleged that an indirect tax rebate scheme, or a drawback scheme, conveys a subsidy by reason of over-rebate or excess drawback of indirect taxes or import charges on inputs consumed in the production of the exported product, the Commission must normally first determine whether the government of the exporting country has in place and applies a system or procedure to confirm which inputs are

consumed in the production of the exported product and in what amounts. Where such a system or procedure is determined to be applied, the Commission must normally then examine the system or procedure to see whether it is reasonable, effective for the purpose intended, and based on generally accepted commercial practices in the country of export. The Commission may deem it necessary to carry out, in accordance with Article 27 paragraph (2) of the regulation on countervailing duties, certain practical tests in order to verify information or to satisfy itself that the system or procedure is being effectively applied.

5. Where there is no such system or procedure, where it is not reasonable, or where it is instituted and considered reasonable but is found not to be applied or not to be applied effectively, a further examination by the exporting country based on the actual inputs involved will normally need to be carried out in the context of determining whether an excess payment occurred. If the Commission deems it necessary, a further examination may be carried out in accordance with paragraph 4 of this annex.

6. The Commission must normally treat inputs as physically incorporated if such inputs are used in the production process and are physically present in the product exported. An input need not be present in the final product in the same form in which it entered the production process

7. In determining the amount of a particular input that is consumed in the production of the exported product, a 'normal allowance for waste` must normally be taken into account, and such waste must normally be treated as consumed in the production of the exported product. The term 'waste` refers to that portion of a given input which does not serve an independent function in the production process, is not consumed in the production of the exported product (for reasons such as inefficiencies) and is not recovered, used or sold by the same manufacturer.

8. The Commission's determination of whether the claimed allowance for waste is 'normal` must normally take into account the production process, the average experience of the industry in the country of export, and other technical factors, as appropriate. The Commission must bear in mind that an important question is whether the authorities in the exporting country have reasonably calculated the amount of waste, when such an amount is intended to be included in the tax or duty rebate or remission.

9. Inputs consumed in the production process are inputs physically incorporated, energy, fuels and oil used in the production process and catalysts which are consumed in the course of their use to obtain the exported product.

ANNEX III

GUIDELINES IN THE DETERMINATION OF INPUTS SUBSTITUTION DRAWBACK SYSTEMS AS EXPORT SUBSIDIES

I

Drawback systems can allow for the refund or drawback of import charges on inputs which are consumed in the production process of another product and where the export of this latter product contains domestic inputs having the same quality and characteristics as those substituted for the imported inputs. Pursuant to paragraph (i) of Annex I, substitution drawback systems can constitute an export subsidy to the extent that they result in an excess drawback of the import charges levied initially on the imported inputs for which drawback is being claimed.

II

In examining any input substitution drawback system as part of a countervailing duty investigation pursuant to regulation C/REG/..../..../13 relative to countervailing duties, the Commission must normally proceed on the following basis:

1. Paragraph (i) of Annex I stipulates that home market inputs may be substituted for imported inputs in the production of a product for export provided such inputs are equal in quantity to, and have the same quality and characteristics as, the imported inputs being substituted. The existence of a verification system or procedure is important because it enables the government of the exporting country to ensure and demonstrate that the quantity of inputs for which drawback is claimed does not exceed the quantity of similar products exported, in whatever form, and that there is not drawback of import charges in excess of those originally levied on the imported inputs in question.

2. Where it is alleged that an input substitution drawback system conveys a subsidy, the Commission must normally first proceed to determine whether the government of the exporting country has in place and applies a verification system or procedure. Where such a system or procedure is determined to be applied, the Commission shall normally then examine the verification procedures to see whether they are reasonable, effective for the purpose intended, and based on generally accepted commercial practices in the country of export. To the extent that the procedures are determined to meet this test and are effectively applied, no subsidy will be presumed to exist. It may be deemed necessary by the Commission to carry out, in accordance with Article 27 paragraph (2) of regulation C/REG/..../..../13 relative to countervailing duties, certain practical tests in order to verify information or to satisfy itself that the verification procedures are being effectively applied.

3. Where there are no verification procedures, where they are not reasonable, or where such procedures are instituted and considered reasonable but are found not to be actually applied or not to be applied effectively, there may be a subsidy. In such cases, further examination by the exporting country based on the actual transactions involved would need to be carried out to determine whether an excess payment

occurred. If the Commission deems it necessary, a further examination may be carried out in accordance with paragraph 2 of this annex.

4. The existence of an input substitution drawback provision under which exporters are allowed to select particular import shipments on which drawback is claimed should not of itself be considered to convey a subsidy.

5. An excess drawback of import charges in the sense of paragraph (i) of Annex I would be deemed to exist where governments paid interest on any monies refunded under their drawback schemes, to the extent of the interest actually paid or payable.

ANNEX IV

(This Annex reproduces Annex 2 to the Agreement on Agriculture. Any terms or expressions which are not explained herein or which are not self-explanatory are to be interpreted in the context of that Agreement.)

DOMESTIC SUPPORT: THE BASIS OF EXEMPTION FROM THE REDUCTION COMMITMENTS

1. Domestic support measures for which exemption from the reduction commitments is claimed shall meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production. Accordingly, all measures for which exemption is claimed shall conform to the following basic criteria:

   a) the support in question shall be provided through a publicly-funded government programme (including government revenue foregone) not involving transfers from consumers; and

   b) the support in question shall not have the effect of providing price support to producers;plus policy-specific criteria and conditions as set out below depending on the policies.

   Public service programmes

2. General services

   Policies in this category involve expenditures (or revenue foregone) in relation to programmes which provide services or benefits to agriculture or the rural community. They shall not involve direct payments to producers or processors. Such programmes, which include but are not restricted to the following list, shall meet the general criteria in point 1 of this annex and policy-specific conditions where set out below:

   a) research, including general research, research in connection with environmental programmes, and research programmes relating to particular products;

b) pest and disease control, including general and product-specific pest and disease control measures, such as early warning systems, quarantine and eradication;

c) training services, including both general and specific training facilities;

d) extension and advisory services, including the provision of means to facilitate the transfer of information and research results to producers and consumers;

e) inspection services, including general inspection services and the inspection of particular products for health, safety, grading or standardisation purposes;

f) marketing and promotion services, including market information, advice and promotion relating to particular products but excluding expenditure for unspecified purposes that could be used by sellers to reduce their selling price or confer a direct economic benefit to purchasers; and

g) Infrastructural services, including: electricity networks, roads and other means of transport, market and port facilities, water supply facilities, dams and drainage schemes, and infrastructural works associated with environmental programmes. In all cases the expenditure shall be directed to the provision or construction of capital works only, and shall exclude the subsidised provision of on-farm facilities other than for the extension of generally available public utilities. It shall not include subsidies on inputs or operating costs, or preferential user charges.

3. Public stockholding for food security purposes (1)

Expenditures (or revenue foregone) in relation to the accumulation and holding of stocks of products which form an integral part of a food security programme identified in national legislation may include government aid to private storage of products as part of such a programme.

The volume and accumulation of such stocks shall correspond to predetermined targets related solely to food security. The process of stock accumulation and disposal shall be financially transparent. Food purchases by the government shall be made at current market prices and sales from food security stocks shall be made at no less than the current domestic market price for the product and quality in question.

4. Domestic food aid (1)

Expenditure (or revenue foregone) in relation to the provision of domestic food aid to sections of the population in need

Eligibility to receive the food aid shall be subject to clearly-defined criteria related to nutritional objectives. Such aid shall be in the form of direct provision of food to those concerned or the provision of means to allow eligible recipients to buy food either at market or at subsidised prices. Food purchases by the government shall be made at current market prices and the financing and administration of the aid shall be transparent.

5. Direct payments to producers

Support provided through direct payments (or revenue foregone, including payments in kind) to producers for which exemption from reduction commitments as claimed shall meet the basic criteria set out in point 1, plus specific criteria applying to various types of direct payment as set out in points 6 to 13. Where exemption from reduction is claimed for any existing or new type of direct payment other than those specified in points 6 to 13, it shall conform to criteria set out in points 6(b) to (e).

6. Decoupled income support

a) Eligibility for such payments shall be determined by clearly-defined criteria such as income, status as a producer or landowner, factor use or production level in a defined and fixed base period.

b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period.

c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

d) The amount of such payments in any given year shall not be related to, or based on, the factors of production employed in any year after the base period.

e) No production shall be required in order to receive such payments.

7. Government financial participation in income insurance and income safety-net programmes

a) Eligibility for such payments shall be determined by an income loss, taking into account only income derived from agriculture, which exceeds 30 % of average gross income or the equivalent in net income terms (excluding any payments from the same or similar schemes) in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest value. Any producer meeting this condition shall be eligible to receive the payments.

b) The amount of such payments shall compensate for less than 70 % of the producer's income loss in the year the producer becomes eligible to receive this assistance.

c) The amount of any such payments shall relate solely to income; it shall not relate to the type or volume of production (including livestock units) undertaken by the producer; or to the prices, domestic or international, applying to such production; or to the factors of production employed.

d) Where a producer receives in the same year payments pursuant to this point and pursuant to point 8 of this annex (relief from natural disasters), the total of such payments shall be less than 100 % of the producer's total loss.

8. Payments (made either directly or by way of a government financial participation in crop insurance schemes) for relief from natural disasters

a) Eligibility for such payments shall arise only following a formal recognition by government authorities that a natural or similar disaster (including disease outbreaks, pest infestations, nuclear accidents, and war on the territory of the Member concerned) has occurred or is occurring; and shall be determined by a production loss which exceeds 30 % of the average of production in the preceding three-year period or a three-year average based on the preceding five-year period, excluding the highest and the lowest value.

b) Payments made following a disaster shall be applied only in respect of losses of income, livestock (including payments in connection with the veterinary treatment of animals), land or other production factors due to the natural disaster in question.

c) Payments shall compensate for not more than the total cost of replacing such losses and shall not require or specify the type or quantity of future production.

d) Payments made during a disaster shall not exceed the level required to prevent or alleviate further loss as defined in criterion set out in point 8 (b) of this annex.

e) Where a producer receives in the same year payments pursuant to this point and pursuant to point 7 (income insurance and income safety-net programmes), the total of such payments shall be less than 100 % of the producer's total loss.

9. Structural adjustment assistance provided through producer retirement programmes

a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to facilitate the retirement of persons engaged in marketable agricultural production, or their shift to non-agricultural activities.

b) Payments shall be conditional upon the total and permanent retirement of the recipients from marketable agricultural.

10. Structural adjustment assistance provided through resource retirement programmes Structural adjustment assistance provided through resource retirement programmes

a) Eligibility for such payments shall be determined by reference to clearly defined criteria in programmes designed to remove land or other resources, including livestock, from marketable agricultural production.

b) Payments shall be conditional upon the retirement of land from marketable agricultural production for a minimum of three years, and in the case of livestock on its slaughter or definitive permanent disposal.

c) Payments shall not require or specify any alternative use for such land or other resources which involves the production of marketable agricultural products.

d) Payments shall not be related to either type or quantity of production or to the prices, domestic or international, applying to production undertaken using the land or other resources remaining in production.

11. Structural adjustment assistance provided through investment aids

a) Eligibility for such payments shall be determined by reference to clearly-defined criteria in government programmes designed to assist the financial or physical restructuring of a producer's operations in response to objectively demonstrated structural disadvantages. Eligibility for such programmes may also be based on a clearly defined government programme for the reprivatisation of agricultural land.

b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than as provided for under criterion 11 of this annex.

c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

d) The payments shall be given only for the period of time necessary for the realisation of the investment in respect of which they are provided.

e) The payments shall not mandate or in any way designate the agricultural products to be produced by the recipients except to require them not to produce a particular product.

f) The payments shall be limited to the amount required to compensate for the structural disadvantage.

12. Payments under environmental protection programmes

a) Eligibility for such payments shall be determined as part of a clearly-defined government environmental protection or conservation programme and be dependent on the fulfilment of specific conditions under the government programme, including conditions related to production methods or inputs.

b) The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme.

13. Payments under regional assistance programmes

a) Eligibility for such payments shall be limited to producers in disadvantaged regions. Each such region must be a clearly designated contiguous geographical area with a definable economic and administrative identity, considered as disadvantaged on the basis of neutral and objective criteria clearly spelt out in a law or regulation and indicating that the region's difficulties arise out of more than temporary circumstances.

b) The amount of such payments in any given year shall not be related to, or based on, the type or volume of production (including livestock units) undertaken by the producer in any year after the base period other than to reduce that production.

c) The amount of such payments in any given year shall not be related to, or based on, the prices, domestic or international, applying to any production undertaken in any year after the base period.

d) Payments shall be available only to producers in eligible regions, but generally available to all producers within such regions.

e) Where related to production factors, payments shall be made at a degressive rate above a threshold level of the factor concerned.

f) The payments shall be limited to the extra costs or loss of income involved in undertaking agricultural production in the prescribed area.

(1) For the purposes of paragraph 3 of this Annex, governmental stockholding programmes for food security purposes in developing countries whose operation is transparent and conducted in accordance with officially published objective criteria or guidelines shall be considered to be in conformity with the provisions of this paragraph, including programmes under which stocks of foodstuffs for food security purposes are acquired and released at administered prices, provided that the difference between the acquisition price and the external reference price is accounted for in the general support measure (GSM).

(2) For the purposes of paragraphs 3 and 4 of this Annex, the provision of foodstuffs at subsidized prices with the objective of meeting food requirements of urban and rural poor in developing countries on a regular basis at reasonable prices shall be considered to be in conformity with the provisions of this paragraph.

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

Seventieth Ordinary Session of the Council of Ministers

Abidjan, 20 & 21 June 2013

REGULATION C/REG.6/06/13 RELATIVE TO DEFENSE MEASURES TO BE IMPOSED ON IMPORTS WHICH ARE DUMPED FROM NON-MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES

THE COUNCIL OF MINISTERS

MINDFUL of Articles 10, 11, and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Articles 35, 36, and 37 of the said treaty relating to trade liberalization, customs duties, and the common external tariff concerning all imported products from third countries into member states with the view to establishing a customs union in the community;

MINDFUL of Article 42 of the ECOWAS Treaty which amongst other issues mandating Member States to prohibit the practice of dumping goods within the Community;

MINDFUL of Decision A/DEC.17.01.0 of 17/10/06 on the adoption of the ECOWAS Common External Tariff, notably article 9 of the said decision authorizing the Council of Minister to determine through a regulation the list of products, tax base, rate and duration of the imposition of the import safeguard tax;

CONSIDERING that anti-dumping measures constitute an additional protection mechanism to protect community production;

DESIROUS of ensuring a smooth implementation of the Common External Tariff by the adoption within this framework of a mechanism for the application of the Import safeguard tax, and in this regard, adopt anti-dumping measures

ON THE PROPOSAL of the 13th meeting of the joint ECOWAS-UEMOA committee for the management of the ECOWAS common external tariff held in Dakar on 29-30 April, 2013;

ON THE RECOMMENDATION of the 52nd session of the Technical Committee on Trade, Customs, and Free movement held in Dakar, on 02-03 May 2013,

ENACTS

GENERAL PRINCIPLES

Article 1: Definitions

For the purpose of this Regulation:

ECOWAS means Economic Community of West African States the establishment of which was reaffirmed by article 2 of the revised treaty signed in Cotonou on 24 July 1993;

Commission means the ECOWAS Commission created by article 17 of the ECOWAS Revised treaty as amended by Supplementary Protocol A/SP1/06/06 on the amendment of the said treaty;

Community means the Economic Community of West African States, the creation of which was reaffirmed by article 2 of the Revised Treaty signed in Cotonou on 24 July 1993;

Member State: Member State of the Community;

Third countries: countries other than Member States of the Community;

Exporting country: This is the country of origin. However, it could be an intermediate country, except when the product is in transit through that country, when the product in question is not manufactured there or when there are no comparable prices for the product in that country.

Like Product: Identical product, similar in all respects, to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration:

Injury: material injury to the Community industry, threat of material injury to the Community industry or material retardation of the establishment or development of such an industry and shall be interpreted in accordance with the provisions of this Article.

Community industry: Community producers as a whole of like products or those of them whose collective output of the products constitutes a major proportion of the total Community production of those products. However, when producers are related to the exporters or importers or are themselves importers of the allegedly dumped product, the term 'Community industry' may be interpreted as referring to the rest of the producers. Producers shall be considered to be related to exporters or importers only if:

a) one of them directly or indirectly controls the other; or
b) both of them are directly or indirectly controlled by a third person; or
c) together they directly or indirectly control a third person provided that there are grounds for believing or suspecting that the effect of the relationship is such as to cause the producer concerned to behave differently from non-related producers. For the purpose of this paragraph, one shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

Community's territory: all the territories of the Member States; in certain circumstances the territory of the Community may, for the production in question, be divided into two or more competitive markets and the producers within each market may be regarded as a separate industry if:

- ✓ the producers within such a market sell all or almost all of their production of the product in question in that market; and
- ✓ the demand in that market is not to any substantial degree supplied by producers of the product in question located elsewhere in the Community. In such circumstances, injury may be found to exist even where a major portion of the total Community industry does not suffer injury, provided there is a concentration of dumped imports into such an isolated market and provided further that the dumped imports are causing injury to the producers of all or almost all of the production within such a market.

Books: all documents kept in an enterprise retracing all the costs relating to commercial operations and the production of the product being considered.

Section 2 – DETERMINATION OF DUMPING

Paragraph 1 – Principles

Article 1
An anti-dumping duty may be applied to any dumped product whose release for free circulation in the Community causes injury or threatens to cause injury to a Community industry or if it causes substantial delay in the creation of an industry within the Community.

Article 2
A product imported from a third party country is considered to constitute dumping when it is introduced into the community at a price that is less than its normal value which corresponds to a comparable price during normal trade for a similar product meant for consumption in the exporting country.

Article 3: Condition for the imposition of anti-dumping measures
An antidumping measure can only be imposed by competent authorities of the Commission on articles imported from third-party States if they are in conformity with article (vi) of the General Agreement on Tariffs and Trade (GATT) of 1994, and of the Agreement on the implementation of article (vi) whose terms and conditions are reiterated in the present Regulation. The authorities referred to in the first clause will initiate, if need be, an investigation to determine:

A. that the product referred to constitutes dumping;
B. that a Community industry has suffered injury or has come under threat of injury, and
C. that there is a link between the injury caused or the threat of injury and the importation constituting dumping.

Paragraph 2 – Calculation of normal value

Article 4: Normal value
The normal value of a product is determined in accordance with whether the product comes from a market-economy country or from a non-market economy country in accordance with the rules defined in articles 5 to 11 here-below.

Article 5: Importation
In the case of importations coming from market-economy countries, the normal value is the price paid or payable, in the ordinary course of trade, by independent customers in the exporting country. Where the exporter in the exporting country does not produce or does not sell the like product, the normal value may be established on the basis of prices of other sellers or producers. Prices between parties which appear to be associated or to have a compensatory arrangement with each other may not be considered to be in the ordinary course of trade and may not be used to establish normal value unless it is determined that they are unaffected by the relationship.

Article 6: Like product

1. When there are no or insufficient sales of the like product in the ordinary course of trade, or where because of the particular market situation or of low sales volumes in the local market of the exporting country such sales do not permit a proper comparison, the normal value of the like product shall be calculated on the basis of the export prices, in the ordinary course of trade, to an appropriate third-party State, provided that those prices are representative, or on the basis of the cost of production in the country of origin plus a reasonable amount for selling, general and administrative costs and for profits.

2. Sales of the like product intended for domestic consumption shall normally be used to determine normal value if such sales volume constitutes 5 % or more of the sales volume of the product under consideration to the Community.

However, a lower volume of sales may be used when, for example, the prices charged are considered representative for the market concerned.

Article 7:

Sales of a like product in the local market of the exporting country or sales to a third-party State at prices less than the retail production price (fixed or variable) increased by administrative and commercialization costs and costs of a general nature cannot be considered as inconsequential during normal trade because of their price and cannot be ignored when the normal value is being determined unless it is found that such sales are made:

a. Over a period of six months or at most less than twelve months;
b. In substantial quantity, and
c. At prices that do not allow all the costs to be covered within a reasonable time limit. If the prices which are less during sales are higher than average unit prices during the period of investigation it is deemed that the prices help to cover the costs within a reasonable time limit. It is taken that sales at prices less than unit costs are made in substantial quantities during the period envisaged in paragraph (a) *above, when it is established that the average sales price is less than average unit of any cost or that the volume of sales at prices less than unit cost does not represent less than 20% of the sales used to determine the normal value*

Article 8: Calculation of cost relating to considered or similar products

1. Costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and that it is shown that the records reasonably reflect the costs associated with the production and sale of the product under consideration. Consideration shall be given to evidence submitted on the proper allocation of costs, provided that it is shown that such allocations have been historically utilised. In the absence of a more appropriate method, preference shall be given to the allocation of costs on the basis of turnover. Unless already reflected in the cost allocations under this subparagraph, costs shall be adjusted appropriately for those non-recurring items of cost which benefit future and/or current production. If during the period covered by the investigation, costs are affected by the operation of the takeoff of a production, the adjustment takes account of the cost at the end of the period of the takeoff or, if that period is longer than the period covered by the investigation, the most recent cost supplied in the three months starting from the time the investigation was opened.

2. The amounts for selling, for general and administrative costs and for profits shall be based on actual data pertaining to production and sales, in the ordinary course of trade, of the like product, by the exporter or producer under investigation. When such amounts cannot be determined on this basis, the amounts may be determined on the basis of:

    a. the actual amounts applicable to production and sales, in the ordinary course of trade, of the same general category of products for the exporter or producer in question in the domestic market of the country of origin;
    b. the weighted average of the actual amounts determined for other exporters or producers subject to investigation in respect of production and sales of the like product in the domestic market of the country of origin;
    a. any other reasonable method, provided that the amount for profit so established shall not exceed the profit normally realised by other exporters or producers on sales of products of the same general category in the domestic market of the country of origin.

Article 9: Determining the normal value for imports from non-market economy States
In the case of imports from non-market economy countries, especially from planned economy countries, the authorities responsible for investigation may, to the extent that they consider the methods for determining the normal value as specified in the present regulation to be inappropriate, determine the normal value on the basis of:

a) a comparable price paid or payable, in the normal course of trade, during the sale of a like product meant for sale in an appropriate market-economy third party State;
b) a comparable price paid or payable, in the course of normal trade, for the export of a like product coming from a market-economy third party State;
c) the price actually paid or payable in the Community for the like product, duly adjusted if necessary to include a reasonable profit margin corresponding to the margin expected from the sector being considered given present economic circumstances;
d) any other reasonable basis.

Article 10 :
An appropriate market-economy third party State shall be selected in a reasonable manner, due account being taken of any reliable information made available at the time of selection. Account shall also be taken of time-limits; where appropriate, a market-economy third party State which is subject to the same investigation shall be used. The parties to the investigation shall be informed shortly after its initiation of the market-economy third-party State envisaged and shall be given 15 days from the date of receipt of notification to present their comments.

Article 11:
The provisions of articles 5 to 8 above may be applied in relation to firms of a non-market economy facing an investigation on the request, made in writing and containing sufficient evidence, of one or more producers, that the producer operates under market economy conditions, where:

- ✓ the decisions of the firms regarding the factors of production and trade policies are made in response to market signals reflecting supply and demand, and without significant State interference in this regard, and costs of major inputs substantially reflect market values;
- ✓ the firms have one clear set of basic accounting records which are independently audited in line with international accounting standards;
- ✓ the production costs and financial situation of the firms are not subject to significant distortions due to their situation in relation to the State;
- ✓ the firms concerned are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of firms. A determination whether the producer meets the above-mentioned criteria shall be made within three months of the initiation

of the investigation, after specific consultation of the Advisory Committee and after the Community industry has been given an opportunity to comment. This determination shall remain in force throughout the investigation.

Paragraph 3 – Determining the export price

Article 12:

1. The export price shall be the price actually paid or payable for the product when sold for export from the exporting country to the Community.

2. In cases where there is no export price or where it appears that the export price is unreliable because of an association or a compensatory arrangement between the exporter and the importer or a third party, the export price may be constructed:
   a. on the basis of the price at which the imported products are first resold to an independent buyer, or,
   b. if the products are not resold to an independent buyer, or are not resold in the condition in which they were imported, on any reasonable basis which may be determined by competent authorities.

Article 13:

In case where the export price is constructed, adjustment for all costs, including duties and taxes, incurred between importation and resale, and for profits accruing, shall be made so as to establish a reliable export price.

The items for which adjustment shall be made shall include those normally borne by an importer but paid by any party, either inside or outside the Community, which appears to be associated or to have a compensatory arrangement with the importer or exporter, including usual transport, insurance, handling, loading and ancillary costs; customs duties, any anti-dumping duties, and other taxes payable in the importing country by reason of the importation.

Paragraph 4 – Determining the margin of dumping

Article 14:

A fair comparison shall be made between the export price and the normal value.

This comparison shall be made at the same level of trade and in respect of sales made at, as closely as possible, the same time and with due account taken of other differences which affect price comparability.

Where the normal value and the export price as established are not on such a comparable basis, due allowance in the form of adjustments shall be made in each case, on its merits, for differences in factors which are claimed, and demonstrated, to affect prices and price comparability.

When the specified conditions are met, the factors for which adjustment can be made are conditions of sale, taxation, level of trade, quantity, physical characteristics and all other elements which are necessary to ensure fair comparability, provided that adjustments already made are not repeated.

Article 15:

When the price comparison requires a conversion of currencies, such conversion shall be made using the rate of exchange on the date of sale, except when a sale of foreign currency on forward markets is directly linked to the export sale involved, in which case the rate of exchange in the forward sale shall be used. Normally, the date of sale shall be the date of

invoice but the date of contract, purchase order or order confirmation may be used if these more appropriately establish the material terms of sale. Fluctuations in exchange rates shall be ignored and exporters shall be granted 60 days to reflect a sustained movement in exchange rates during the investigation period.

Article 16:
The dumping margin is the amount by which the normal value is greater than the export price. When the dumping margins vary, an average weighted dumping margin perhaps based on a comparison of an average weighted value with average weighted price of all export to the Community.

However a normal value worked out on a weighted average can be compared to export transactions considered individually, if the configuration of export prices is remarkably different between different buyers, regions or periods and if an explanation is given as to why it is not possible to duly take into account such differences by using a weighted average to weighted average comparison or a transaction to transaction comparison.

Section 3 – Determination of the existence of injury and a causal link

Paragraph 1 – Determining the existence of injury

Article 17:
A determination of injury shall be based on positive evidence and shall involve an objective examination of:

a. the volume of the dumped imports ;
b. the effect of the dumped imports on prices in the Community market for like products; and
c. the consequent impact of those imports on the Community industry.

Article 18:
With regard to the volume of the dumped imports, consideration shall be given to whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the Community. With regard to the effect of the dumped imports on prices, consideration shall be given to whether there has been significant price undercutting by the dumped imports as compared with the price of a like product of the Community industry, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which would otherwise have occurred, to a significant degree.

Article 19:
Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the effects of such imports shall be cumulatively assessed only if it is determined that:

a. the margin of dumping established in relation to the imports under investigation from each country is more than *de minimis* as defined in Article 30 of this regulation and that the volume of imports under investigation from each country is not negligible within the meaning of the same article
b. a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between imported products and the conditions of competition between the imported products and the like Community product.

Article 20 :

1. The examination of the impact of the dumped imports on the Community industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including:

measures within the emergency procedure referred to in article 31 of the present regulation.

Paragraph 2 – Determining the existence of a causal link

Article 22 :

1. It should be demonstrated with all the relevant elements of proof presented, that the importation constituting dumping causes injury within the meaning of the present regulation. In this case, it involves demonstrating that the volume and/or the level of prices referred to in article 17 have an impact on the Community industry and that the impact is such that it could be considered to be significant;

2. Known factors, apart from importations constituting dumping which at the same time cause injury to the Community industry, are also investigated in a way that the injury caused by the factors are not attributed to importations constituting dumping. Factors that can be considered as relevant in that respect include, among others:

   a) volume and prices of importation that are not sold at dumping prices;
   b) the shrinking of demand or the adjustment in the configuration of consumption;
   c) restrictive commercial practices of third party country and community producers and the competition among the same producers;
   d) progress in techniques;
   e) exportation and productivity results of the Community industry.

Section 4 – Initiation and conduct of investigations

Paragraph 1 - Conditions for the initiation of investigations

Article 23:

With due regards to measures in article 37 of the present regulation an investigation aimed at determining the existence, the extent and the effect of any alleged dumping shall be initiated on complaint presented in writing by the Community industry or any physical or moral person acting in its name.

The complaint may be addressed to the Commission or to a Member State who will forward it to the Commission. The Commission will send to Member States a copy of each complaint it receives. The complaint should be submitted the first working day of its receipt at the Commission by registered letter or one with acknowledgement of receipt by the Commission. When in the absence of complaint a Member State is in prossession of elements of sufficient proof about a dumping and the injury that result from it to the Community industry, it shall quickly communicate it to the Commission.

Article 24:

A request presented according to Article 23 above shall include elements of proof of the existence of dumping, of injury and of a causal link in the sense meant in articles 17 to 23 of the present regulation. It shall contain information that can reasonably be available to the complainant on the following points:

a. the name and the address of the complainant
b. the industry on behalf of which the complaint is made, comprising a list of all known Community producers;
c. information on the degree of support of the industry, such as :

i. the volume and value of Community production of the like product accounted for by such producers, and
ii. the volume and value of production of the like product accounted for by the claimant and by each identified Community producer.

d. a complete description of the allegedly dumped product, including its technical charateristics, its uses and its ranking in the tariff regime in force;
e. the country where the product alleged to constitute dumping is manufactured or produced and the intermediary country where it is imported from;
f. the name and the address of each person who to the knowledge of the claimant sells the product that is alleged to constitute dumping and the total size of exportation to the community that is attributed to it for the last twelve months;
g. information on the price at which the product is sold for consumption in the local market, its country of origin or country of export and information on the export price or, if the need arises, on the price at which the product alleged to constitute dumping is resold for the first time to an independent buyer in the community;
h. Information on the evolution of the volume of importation of the product that is alleged to constitute dumping, the effect of the importations on the price of similar products on the community's market and the effect of these importations on the industry.

This information can be obtained either from the Commission or from Member States

Article 25:
The Commission shall not publicise the complaint seeking the initiation of an investigation unless a decision has been made to initiate an investigation. However, after receipt of a properly documented complaint and before proceeding to initiate an investigation, the government of the exporting country concerned shall be notified.

Article 26:
The Commission shall, as far as possible, examine the accuracy and adequacy of the evidence provided in the complaint to determine whether there is sufficient evidence to justify the initiation of an investigation.

Article 27:

An investigation shall not be initiated pursuant to Article 23 unless it has been determined, on the basis of an examination as to the degree of support for, or opposition to, the complaint expressed by Community producers of the like product, that the complaint has been made by or on behalf of the Community industry. The complaint shall be considered to have been made by or on behalf of the Community industry if it is supported by those Community producers whose collective output constitutes more than 50 % of the total production of the like product produced by that portion of the Community industry expressing either support for or opposition to the complaint. However, no investigation shall be initiated when Community producers expressly supporting the complaint account for less than 25 % of total production of the like product produced by the Community industry.

Article 28:

In special circumstances, Community authorities may decide to initiate an investigation without having received a written complaint by or on behalf of the Community industry for the initiation of such investigation.

This shall be done on the basis of sufficient evidence of dumping, injury and a causal link, within the meaning of Articles 17 to 22 of this Regulation, justifying such initiation.

Article 29:
The complaint may be withdrawn prior to initiation, in which case it shall be considered not to have been lodged.

Article 30:
The evidence of both dumping and injury shall be considered simultaneously in the decision on whether or not to initiate an investigation.

A complaint shall be rejected and the investigation promptly terminated when the concerned authorities are satisfied that there is insufficient evidence of either dumping or of injury to justify proceeding with the case.

The closing of the investigation shall be immediate, in cases where the authorities determine that the margin of dumping is *de minimis*, or that the volume of imports, actual or potential, subject to dumping or the injury is negligible.

The margin of dumping shall be considered *de minimis* if, when expressed as a percentage of the export price, it is less than 2%.

In case of investigations concerning several countries at the same time, the volume of dumped imports shall normally be regarded as negligible if, from a particular country, it represents less than 3% of the Community's imports of the like product, unless these countries collectively account for at least 7% of the Community's imports.

Paragraph 2 - Procedures for initiating and conducting investigations

Article 31:

Where insufficient evidence has been presented, the complainant shall, after consultation, be so informed within 30 days of the date on which the complaint is lodged with the Commission. Where, after consultation, it is apparent that there is sufficient evidence to justify initiating a proceeding, the Commission shall do so within 30 days of the lodging of the complaint and shall publish a notice in the Official Journal of the Commission.

However, when the Commission disposes, on the basis of an initial assessment of the complaint and the possible consequences of the invitation referred to in paragraph 4 of Article 21 of this Regulation, of the first elements sufficient to characterise a threat of injury within the meaning of that section, it shall promptly initiate an investigation within thirty days after the filing of the complaint. The countries concerned shall be notified of the initiation of proceedings and investigation, by a communication giving a summary of the information received. Interested parties may make themselves known, present their views in writing and submit relevant information to the Commission.

The Commission shall ensure the protection of confidential information during and after the investigation. The information provided shall not be disclosed without the express permission of the party who provided the information.

Article 32:

Anti-dumping investigations consist of research for the most reliable information to take appropriate measures with a view to their closure.

They may consist of sending survey forms to interested parties, of checks carried out by the Commission or at its request by the Member States.

Article 33:

1. Parties receiving questionnaires used in an anti-dumping investigation shall be given at least 30 days to reply. The time limit for exporters shall be counted from the date of receipt of the questionnaire, which for this purpose shall be deemed to have been received seven days from the day on which it was sent to the respondent or transmitted to the appropriate diplomatic representative of the exporting country. An extension not exceeding 30 days may be granted, due account being taken of the time-limits of the investigation, provided that the party shows due cause for such extension, in terms of its particular circumstances.

2. The Commission may request Member States to supply information, and Member States shall take whatever steps are necessary in order to respond to such requests. They shall send to the Commission the information requested together within the results of all inspections, checks or investigations carried out.

3. Where this information is of general interest or where its transmission has been requested by a Member State, the Commission shall forward it to the Member States, provided it is not confidential, in which case a non-confidential summary shall be forwarded.

4. The Commission may request Member States to carry out all necessary checks and inspections, particularly amongst importers, traders and Community producers, and to carry out investigations in third countries, provided that the firms concerned give their consent and that the government of the country in question has been officially notified and raises no objection. Member States shall take whatever steps are necessary in order to respond to such requests from the Commission. Officials of the Commission shall be authorized, if the Commission or a Member State so requests, to assist the officials of Member States in carrying out their duties.

5. Opportunities shall, on request, be provided for the importers, exporters, representatives of the government of the exporting country and the complainants, which have made themselves known in accordance with Article 31 above, to meet those parties with adverse interests, so that opposing views may be presented and rebuttal arguments offered. Provision of such opportunities must take account of the need to preserve confidentiality and of the convenience to the parties. There shall be no obligation on any party to attend a meeting, and failure to do so shall not be prejudicial to that party's case. Oral information provided under this paragraph shall be taken into account in so far as it is subsequently confirmed in writing.

6. The complainants, importers and exporters and their representative associations, users and consumer organisations may, upon written request, inspect all information made available by any party to an investigation, with the exception of internal documents prepared by the authorities of the Community or its Member States provided that such information is relevant to the defense of their interests and not confidential and are used in the investigation. Such parties may respond to such information and their comments shall be taken into consideration, wherever they are sufficiently substantiated in the response.

7. Except in the circumstances provided for in Article 61 of this Regulation, the information which is supplied by interested parties and upon which findings are based shall be examined for accuracy as far as possible.

Article 34:

1. The Commission shall, where it considers it appropriate, carry out visits to examine the records of importers, exporters, traders, agents, producers, trade associations and organisations and to verify information provided on dumping and injury. In the absence of a proper and timely response, a verification visit may not be performed.

2. The Commission may carry out investigations in third countries as required, provided that it obtains the agreement of the firms concerned, that it notifies the representatives of the

government of the country in question and that the latter does not object to the investigation. As soon as the agreement of the firms concerned has been obtained the Commission should notify the authorities of the exporting country of the names and addresses of the firms to be visited and the dates agreed. Also, the Commission may delegate this responsibility to staff of diplomatic representations of Member States who are in Foreign Service.

3. The firms concerned shall be advised of the nature of the information to be verified and of any further information which needs to be provided during such visits, though this should not preclude requests made during the verification for further details to be provided in the light of information obtained.

4. In investigations carried out pursuant to paragraphs 1, 2 and 3 of the present article the Commission shall be assisted by officials of those Member States who so request.

Article 35:
Investigations shall, except in special circumstances, be concluded within one year, and in any event within a period not exceeding 18 months after opening.

However, the investigation carried out under the urgency procedure referred to in the third paragraph of Article 31 of this Regulation, shall be completed within a maximum period of four months after its opening in the manner provided in Section V of this regulation.

Article 36:
An anti-dumping investigation shall not hinder the procedures of customs. Following the adoption of measures, no formalities other than those necessary for the implementation of these measures are imposed.

Section 5 - Termination of Investigation

Article 37:

A complaint made under article 23 above may be withdrawn at any time after the initiation of an investigation, in which case the investigation is terminated without any actions taken, unless such a termination is not in the interest of the Community.

Article 38:

For a proceeding initiated pursuant to Article 23, injury shall normally be regarded as negligible where the imports concerned represent less than the volumes set out in Article 30 above. For the same proceeding, there shall be immediate termination where it is determined that the margin of dumping is less than 2 %, expressed as a percentage of the export price, provided that it is only the investigation that shall be terminated where the margin is below 2 % for individual exporters and they shall remain subject to the proceeding and may be reinvestigated in any subsequent review carried out for the country concerned pursuant to Articles 55, 56 and 57 of this Regulation.

Article 39:

The Commission shall make public, with due regard to the obligation to protect confidential information, a notice of termination of an investigation without the imposition of measures, which describes in sufficient detail the findings and conclusions reached on all issues of fact and of law that it deems important, including those that led to the acceptance or rejection of arguments.

Paragraph 1 – Provisional measures and price undertakings

Article 40:

1. Provisional measures, which take the form of provisional duties, may be imposed if:
   a. proceedings have been initiated in accordance with Article 23 above, if a notice has been given to that effect and interested parties have been given adequate opportunities to submit information and make comments;

   b. if a provisional affirmative determination has been made of dumping and consequent injury to the Community industry, and if the Community interest calls for intervention to prevent such injury during the period of proceedings;

   c. an emergency investigation procedure was initiated within the meaning of the third paragraph of Article 31 above.

2. The provisional duties shall be imposed no earlier than 60 days from the initiation of the proceedings

3. Where a Member State requests immediate intervention by the Commission and where the conditions in paragraph 1 and 2 of this Article are met, the Commission shall within a maximum of five working days of receipt of the request, decide whether a provisional duty shall be imposed.

4. The amount of the provisional anti-dumping duty shall not exceed the margin of dumping as provisionally established, but it should be less than the margin if such lesser duty would be adequate to remove the injury to the Community industry.

5. Provisional duties are covered by a guarantee (bond or cash deposit), and the release for consumption of the product concerned in the Community is subject to the provision of this warranty.

6. The opening of an investigation in emergency, as provided in Article 31 above, may also justify the adoption of emergency measures. These can be taken at any time during the course of the investigation and shall not prejudge the outcome of the latter.

7. The Commission shall inform the Member States of any decision on provisional or emergency measures.

Article 41:
Provisional duties may be imposed for six months and extended for a further three months or they may be imposed for a period of nine months. However, they may only be extended, or imposed for a nine-month period, where exporters representing a significant percentage of the trade involved so request or do not object upon notification by the Commission.

Article 42:
1. An investigation may be suspended or terminated without the imposition of provisional or definitive duties when the exporter is committed voluntarily and adequately to revising its prices or to cease exports to the area in question at dumped prices, so that the Commission, after consulting is satisfied that the injurious effect of the dumping is eliminated. The Price increases under such undertakings shall not be higher than necessary to eliminate the margin of dumping and should be less than the margin of dumping if they are sufficient to remove the injury to the Community industry.

2. Undertakings may be suggested by the Commission, but no exporter shall be obliged to enter into such an undertaking. The fact that exporters do not offer such undertakings, or do not accept an invitation to do so, shall in no way prejudice consideration of the case. However,

it may be determined that a threat of injury is more likely to materialise if the dumped imports continue.

Article 43:

1. Undertakings shall not be sought or accepted from exporters unless a provisional affirmative determination of dumping and injury caused by such dumping has been made

2. Undertakings offered need not be accepted if their acceptance is considered impractical, if such as where the number of actual or potential exporters is too great, or for other reasons, including reasons of general policy.

The exporter concerned may be provided with the reasons for which it is proposed to reject the offer of an undertaking and may be given an opportunity to make comments thereon. The reasons for rejection shall be set out in the definitive decision.

3. Parties which offer an undertaking shall be required to provide a non-confidential version of such undertaking, so that it may be made available to interested parties to the investigation.

4. The Commission shall require any exporter from which an undertaking has been accepted to provide, periodically, information relevant to the fulfillment of such undertaking, and to permit verification of pertinent data. Non-compliance with such requirements shall be construed as a breach of the undertaking

Article 44:

If the undertakings are accepted, the investigation of dumping and injury shall normally be completed. In such a case, if a negative determination of dumping or injury is made, the undertaking shall automatically lapse, except in cases where such a determination is due in large part to the existence of a price undertaking.

In such cases it may be required that an undertaking be maintained for a reasonable period in accordance with the provisions of this Regulation. In the event that an affirmative determination of dumping and injury is made, the undertaking shall continue consistent with its terms and the provisions of this Regulation.

Article 45:

1. In case of breach or withdrawal of an undertaking where the investigation which led to the undertaking has not been concluded a provisional duty may be imposed on the basis of the best information available

2. In case of breach or withdrawal of undertakings by any party to the undertaking, a definitive duty shall be established in accordance with Article 47 below on the basis of facts established within the context of the investigation which led to the undertaking, provided that the investigation was concluded by a final determination of dumping and injury and that the exporter concerned has, except where he himself has withdrawn the undertaking, been given an opportunity to comment.

Paragraph 2 - Imposition and Collection of Anti-dumping duties

Article 46:

Provisional or definitive anti-dumping duties shall be imposed by Regulation, and collected by Member States in the form, at the rate specified and according to the other criteria laid down in the Regulation imposing such duties. Such duties shall also be collected independently of the customs duties, taxes and other charges normally imposed on imports

Article 47:
Where the facts as finally established show that there is dumping and injury caused thereby, and the Community interest calls for intervention, a definitive anti-dumping duty shall be imposed by the Council of Ministers, acting on a proposal from the Commission.

Where provisional duties are in force, a proposal for definitive action shall be submitted no later than one month before the expiry of such duties.

The amount of the anti-dumping duty shall not exceed the margin of dumping as provisionally established, but it should be less than the margin if such lesser duty would be adequate to remove the injury to the Community industry.

Article 48:

Dumping duty is *ad valorem*. It is imposed in addition to other import duties levied on imported goods concerned. An anti-dumping duty shall be imposed in the appropriate amounts in each case, on a non-discriminatory basis on imports of a product from all sources found to be dumped and causing injury, except for imports from those sources from which undertakings under the terms of this Regulation have been accepted.

The decision imposing the duty shall specify the amount of the fee imposed and the name of the supplier of the product in question.

However, in the case where several suppliers from the same country are involved, and it would be impossible to mention them all, the decision can make known the name of the supplier country concerned. If several suppliers from different countries are involved, the decision may name either all the suppliers involved, or if this is impracticable, all the supplying countries involved.

Article 49:
The procedure for assessment and collection of the revenues from the anti-dumping measures shall be the same as in the case of the Community Levy (CL)

Article 50:
Revenues from anti-dumping measures shall be paid into a special fund to be created by the Authority of Heads of States and Government

Article 51:
The competent authorities may, in the interest of the Community, decide to suspend the implementation of measures imposed under this Regulation for a specific period. They can only suspend the measures in the event that market conditions have temporarily changed and the application of the measures would not be in the interest of the Community, taking into account the observations of the industry concerned.

Article 52:
1. Notwithstanding Article 54 paragraph 1 of this Regulation, an importer may request reimbursement of duties collected where it is shown that the dumping margin, on the basis of which duties were paid, has been eliminated or reduced to a level which is below the level of the duty in force.

2. To obtain a refund of anti-dumping duties, the importer shall submit an application to the Commission. The application shall be submitted via the Member State of the territory in which the products were released for free circulation, and within six months of the date on which the amount of the definitive duties to be levied was duly determined by the competent authorities or of the date on which a decision was made definitively to collect the amounts secured by way of provisional duty. Member States shall forward the request to the Commission forthwith.

3. An application for refund shall only be considered to be duly supported by evidence where it contains precise information on the amount of refund of anti-dumping duties claimed and all customs documentation relating to the calculation and payment of such amount. It shall also include evidence, for a representative period, of normal values and export prices to the Community for the exporter or producer to which the duty applies. In cases where the importer is not associated with the exporter or producer concerned and such information is not immediately available, or where the exporter or producer is unwilling to release it to the importer, the application shall contain a statement from the exporter or producer that the dumping margin has been reduced or eliminated, as specified in this Article, and that the relevant supporting evidence will be provided to the Commission.
Where such evidence is not forthcoming from the exporter or producer within a reasonable period of time the application shall be rejected.

4. The decision on the refund of duties shall normally take place within twelve (12) months and, in any event, not more than eighteen months after the date on which the request for refund, duly supported by evidence, was introduced by an importer of the product subject to the antidumping duty. Authorized a refund plus, where applicable, default interest should normally be made by Member States in ninety days after the above decision.

Article 53:

1. The public shall be notified of decisions imposing provisional or definitive antidumping duties, and regulations or decisions accepting undertakings or terminating investigations or proceedings. Such regulations or decisions shall contain in particular and with due regard to the protection of confidential information, the names of the exporters, if possible, or of the countries involved, a description of the product and a summary of the material facts and considerations relevant to the dumping and injury determinations.

In each case, a copy of the regulation or decision shall be sent to known interested parties.

The provisions of this paragraph shall apply *mutatis mutandis* to reviews.

2. The Commission may, after consultation of the CET Management Committee, direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. Imports may be made subject to registration following a request from the Community industry which contains sufficient evidence to justify such action. Registration shall be introduced by the Commission's decision which shall specify the purpose of the action and, if appropriate, the estimated amount of possible future liability. Imports shall not be made subject to registration for a period longer than nine months.

The decision to submit the imports to registration may occur upon initiation of the investigation.

3. Member States shall report to the Commission every quarter, on the import trade in products subject to investigation and to measures, and on the amount of duties collected pursuant to this Regulation.

Article 54:
Subject to the exceptions set out in this Regulation, provisional and definitive duties are applied to products which enter for consumption after the date on which the decision taken in accordance with Articles 41, 46 and 47 above came into force.

Article 55:
An anti-dumping duty may be levied on products which were entered for consumption not more than 90 days prior to the date of application of provisional measures but not prior to the initiation of the investigation, provided that imports have been registered in accordance with

Article 51 paragraph 2, the Commission has allowed the importers an opportunity to submit their comments, and:
(a) there is, for the product in question, a history of dumping over an extended period, or the importer was aware of, or should have been aware of, the dumping as regards the extent of the dumping and the injury alleged or found; and

(b) in addition to the level of imports which caused injury during the investigation period, there is a further substantial rise in imports which, in the light of its timing and volume and other circumstances, is likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied.

2. In cases of breach or withdrawal of undertakings, definitive duties may be levied on goods entered for free circulation no more than ninety days before the application of provisional measures, provided that imports have been registered in accordance with Article 51 paragraph 2, and that any such retroactive assessment shall not apply to imports entered before the breach or withdrawal of the undertaking.

Article 56:
Where a provisional duty has been applied and the facts as finally established show that there is dumping and injury, the Commission shall decide, irrespective of whether a definitive anti-dumping duty is to be imposed, what proportion of the provisional duty is to be definitively collected. For this purpose, injury shall not include material retardation of the establishment of a Community industry, nor threat of material injury, except where it is found that this would, in the absence of provisional measures, have developed into material injury. In all other cases involving such threat or retardation, any provisional amounts shall be released and definitive duties can only be imposed from the date that a final determination of threat or material retardation is made.

2. If the definitive duty is higher than the provisional duty paid or payable, the difference shall not be collected. If the definitive duty is lower than the provisional duty paid or payable, the difference will be reimbursed or the duty recalculated, as appropriate. Where a final determination is negative, the provisional duty shall not be confirmed.

Paragraph 3 - Duration, reviews of anti-dumping duties and price undertakings

Article 57:
An anti-dumping measure shall remain in force only as long as, and to the extent that, it is necessary to counteract the dumping which is causing injury.

1. A definitive anti-dumping measure shall expire five years from its imposition or five years from the date of the conclusion of the most recent review which has covered both dumping and injury, unless it is determined in a review that the expiry would be likely to lead to a continuation or recurrence of dumping and injury.

2. The review of measures at expiry shall be initiated on the initiative of the Commission, or upon request made by or on behalf of Community producers, and the measure shall remain in force pending the outcome of such review.

3. An expiry review shall be initiated where the request contains sufficient evidence that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury. Such likelihood may be supported by evidence of continued dumping and injury or evidence that the removal of injury is partly or solely due to the existence of measures or evidence that the circumstances of the exporters, or market conditions, are such that they would indicate the likelihood of new practices of injurious dumping.
4. Community producers are entitled to submit a request for review in accordance with paragraph 1 not later than three months before the end of the period of five years. During investigations carried out during the review, the exporters, importers, the representatives of the exporting country and the Community producers shall be provided with the opportunity to

amplify, rebut or comment on the matters set out in the review , and conclusions shall be reached with due account taken of all relevant and duly documented evidence, presented in relation to the question of whether the expiry of measures would be likely, or unlikely, to lead to the continuation or recurrence of dumping and injury.

Article 58:

The need for the continued imposition of measures may also be reviewed, where warranted, on the initiative of the Commission or at the request of a Member State or, provided that a reasonable period of time of at least one year has elapsed since the imposition of the definitive measure, upon a request by any exporter or importer or by the Community producers which contains sufficient evidence substantiating the need for such an interim review.

Article 59:

A review shall also be carried out for the purpose of determining individual margins of dumping for new exporters in the exporting country in question which have not exported the product during the period of investigation on which the measures were based. The review shall be initiated where a new exporter or producer can show that it is not related to any of the exporters or producers in the exporting country which are subject to the anti-dumping on the product, and that it has actually exported to the Community following the investigation period, or where it can demonstrate that it has entered into an irrevocable contractual obligation to export a significant quantity to the Community.

2. In all review or refund investigations carried out pursuant to this section and sections 50, 55 and 56 above, the Commission shall, to the extent that circumstances have not changed, apply the same methodology as in the investigation which led to the duty.

Article 60:

The provisions of Articles 54, 55 and 56 of this Regulation shall apply *mutatis mutandis* to price undertakings.

Article 61:

1. Where the Community industry provide sufficient information showing that the measures did not result in a change or resulted only in insufficient movement in the resale prices or subsequent selling prices of the imported product in the Community, the investigation may, after consultation, be reopened to examine whether the measure has had effects on the abovementioned prices.

2. During a reinvestigation pursuant to this section, exporters, importers and Community producers shall be provided with an opportunity to clarify the situation with regard to resale prices and subsequent selling prices, and if it is concluded that the measure should lead to a change in these prices to eliminate the injury previously established in accordance with Article 17, the export price should be reassessed in accordance with Article 13 and the dumping margins must be recalculated to take account of the reassessed export prices. If we consider that the stability of prices in the Community is due to a decrease in export prices before or after the imposition of measures, the dumping margins may be recalculated to reflect these lower export prices.

3. Where a reinvestigation pursuant to this Article shows increased dumping, the measures in force may be amended in accordance with the new findings on export prices.

4. The relevant provisions of this regulation shall apply to any reinvestigation carried out pursuant to this Article, except that such reinvestigation shall be carried out expeditiously and shall normally be concluded within six months of the date of initiation of the reinvestigation.

5. Alleged changes in normal value shall only be taken into account under this section where complete information on revised normal values, duly substantiated by evidence, is made

available to the Commission within the time-limits set out in the notice of initiation of an investigation. Where an investigation involves a re-examination of normal values, imports may be required pending the outcome of further investigation for possible enforcement action against them from the date of registration.

Article 62:

The relevant provisions of corresponding procedure of this regulation for the initiation and conduct of investigations shall apply to any reinvestigation carried out pursuant to sections 55 and 56 above. Such reinvestigation shall be carried out expeditiously and shall normally be concluded within twelve months of the date of initiation of the reinvestigation.

Section 6 - Special Provisions

Article 63:

1. In cases in which any interested party refuses access to, or otherwise does not provide, necessary information within the time-limits provided in this Regulation, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of the facts available. Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available. Interested parties should be made aware of the consequences of non-cooperation.
2. When the necessary information is not provided or not accepted, the Commission may use other independent sources.
3. If an interested party does not cooperate, or cooperates only partially, so that relevant information is thereby withheld, the result may be less favourable to the party than if it had cooperated.

Article 64:

1. Where the Commission is satisfied that the evidence is sufficient to justify the initiation of a dumping investigation all interested parties receive notice and a notice may be made public.

2. The complainants, importers and exporters and their representative associations, and representatives of the exporting country, may request disclosure of the details underlying the essential facts and considerations on the basis of which provisional measures have been imposed. Requests for such disclosure shall be made in writing immediately following the imposition of provisional measures, and the disclosure shall be made in writing as soon as possible, and normally one month at the latest before the final decision. Where the Commission is not able to disclose certain facts or considerations in the period, this must be done as soon as possible thereafter. Disclosure shall not prejudice any subsequent decision which may be taken by the Commission based on different facts and considerations; these shall be disclosed as soon as possible.

3. 3) Representations made after final disclosure is given shall be taken into consideration only if received within a period to be set by the Commission in each case, which shall be at least 10 days.

Article 65:

A determination as to whether the Community interest calls for intervention shall be based on an appreciation of all the various interests taken as a whole, including the interests of the domestic industry and users and consumers, and a determination shall only be made where all parties have been given the opportunity to make their views known on the imposition of measures or non-action.

As part of this review, special attention is paid to the need to eliminate the trade-distorting effects of injurious dumping and to restore effective competition.

Measures, as determined on the basis of the dumping and injury found, may not be applied where the authorities, on the basis of all the information submitted, can clearly conclude that it is not in the Community interest to apply such measures. Final decisions are communicated to the interested parties who may submit comments.

Section 7 - Final Provisions

Article 66:

This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTÉ ÉCONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY
OF WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June, 2013

REGULATION C/REG.7/06/13 RELATING TO THE OPTIMIZATION OF THE OPERATION OF THE WEST AFRICAN GAS PIPELINE AND STUDIES ON ITS EXTENSION

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Articles 28 and 55 of the said Treaty relating to the promotion, integration and development of energy projects and cooperation in the energy sectors of the Member States of the Community;

MINDFUL of Decision A/DEC.3/5/82 on the ECOWAS Energy Policy;

MINDFUL of Protocol A/P4/1/03 of 31 January 2003, hereafter referred to as « the ECOWAS Energy Protocol » establishing the legal framework intended to promote long term cooperation in the ECOWAS energy sector and based on complementarities and mutual benefit aimed at achieving increased investment in the energy sector and increased energy trade in the West African region;

CONSIDERING the actions undertaken by ECOWAS Commission since 1982 for the construction and operation of the West African Gas Pipeline;

CONSIDERING the moderate output yield by the West African Gas Pipeline since its commissioning since 2011;

NOTING that at the forty second Ordinary Session of the Authority of Heads of State and Government; the Heads of State and Government stressed the importance of improving the efficiency of interconnectivity projects in the region including the West African pipeline;

ACKNOWLEDGING the huge gas potential in the region and the large demand in the region, in particular gas used in producing electricity;

ON THE RECOMMENDATION of the Meeting of the Ministers in charge of Energy held in Yamoussoukro, Republic of Côte d'Ivoire, on 24th May 2013;

ENACTS

Article 1

The ECOWAS Commission shall take all the necessary steps in conjunction with the States Parties in the gas pipeline project with a view to optimizing the operations of the West African Gas Pipeline.

Article 2

The ECOWAS Commission shall conduct feasibility studies on the extension of the West African Gas Pipeline to Member States especially land-locked States. This study should also consider other options like Liquefied Natural Gas (LNG).

Article 3

The ECOWAS Commission shall undertake measure for the improvement of the security of the Gas pipeline, gas availability and the discharge of the existing contractual obligations by all the partners.

Article 4

This Regulation shall be published by the Commission in the official journal of the Community within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall equally be published by each Member State in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN
FOR COUNCIL

COMMUNAUTÉ ÉCONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY
OF WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June 2013

REGULATION C/REG.8/06/13 RELATING TO THE ESTABLISHMENT OF A FUND FOR EMERGENCY MEASURES IN THE ENERGY SECTOR

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Articles 28 and 55 of the said Treaty relating to the promotion, integration and development of energy projects and cooperation in the energy sectors of the Member States of the Community;

MINDFUL of Protocol A/P4/1/03 of 31 January 2003, hereafter referred to as the ECOWAS Energy Protocol establishing the legal framework intended to promote long term cooperation in the ECOWAS energy sector, and based on complementarities and mutual benefit aimed at achieving increased investment in the energy sector and increased energy trade in the West African region;

MINDFUL of Supplementary Act A/SA.4/01/08 of 18 January 2008 adopting the Emergency Power Supply Security Plan (EPSSP);

CONSIDERING the financial support the ECOWAS Commission provided to two Member States for the implementation of emergency measures to improve power supply, namely Guinea Bissau for US$ 6 million and Guinea for US$ 30 million;

CONSIDERING the requests made by some Member States to the ECOWAS Commission to provide them financial support for the implementation of an emergency power supply programme;

ON THE RECOMMENDATION of the ***meeting of the Ministers in charge of Energy*** held in Yamoussoukro, Republic of Côte d'Ivoire, on 24th May 2013:

ENACTS

Article 1

a) A Fund for emergency power supply measures in Member States within the Energy Sector is hereby established;

b) The fund shall be operated as a window within the ECOWAS Solidarity Fund framework.

Article 2

1. The ECOWAS Commission shall expeditiously conduct a study in order to determine eligibility criteria and conditions to be met by beneficiary Member States for assessing the funds.

2. The Commission shall also establish a performance monitoring system to monitor the execution of programmes that are beneficiaries of the Fund including related disbursements.

Article 3

This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June 2013

REGULATION C/REG.9/06/13 RELATING TO CAPACITY BUILDING IN THE ENERGY SECTOR

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Articles 28 and 55 of the said Treaty relating to the promotion, integration and development of energy projects and cooperation in the energy sectors of the Member States of the Community;

MINDFUL of Decision A/DEC.3/5/82 on the ECOWAS Energy Policy;

MINDFUL OF Decision A/DEC.3/12/03 relating to the Regional Rural Electrification Programme;

MINDFUL OF Decision A/DEC.24/01/06 relating to the ECOWAS/UEMOA Regional Policy on Access to Energy Services for Populations in Rural and Peri-urban Areas for Poverty Reduction in line with achieving the MDGs in Member States.

MINDFUL of Protocol A/P4/1/03 of 31 January 2003, hereafter referred to as the ECOWAS Energy Protocol establishing the legal framework intended to promote long term cooperation in the ECOWAS energy sector and based on complementarities and mutual benefit aimed at achieving increased investment in the energy sector and increased energy trade in the West African region;

NOTING that the Inter-African Electrical Engineering College (IEEC) created by the Union of Producers, Distributers and Transmitters of Electricity in Africa (UPDEA) has contributed in the training of many highly qualified engineers for the energy sector;

CONSIDERING the urgent need to increase qualified staff in the energy sector for development, implementation of projects and their operations;

ON THE RECOMMENDATION of the ***Tenth Meeting of the Ministers in charge of Energy*** held in Yamoussoukro, Republic of Côte d'Ivoire, on 24th May 2013;

ENACTS

Article 1

The ECOWAS Commission to take all the necessary steps in collaboration with the Government of Côte d'Ivoire; African Electricity Companies Association (ASEA) and other technical partners for the resumption of academic activities at the Inter-African Electrical Engineering College (ESIE).

Article 2

The ECOWAS Commission and other technical partners shall mobilize the necessary funds for the resumption of academic activities at ESIA.

Article 3

This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTÉ ÉCONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY
OF WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June 2013

REGULATION C/REG.10/06/13 RELATING TO RESOURCE MOBILIZATION FOR THE IMPLEMENTATION OF THE SUSTAINABLE ENERGY FOR ALL INITIATIVE IN THE ECOWAS SUB-REGION

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Articles 28 and 55 of the said Treaty relating to the promotion, integration and development of energy projects and cooperation in the energy sectors of the Member States of the Community;

MINDFUL of Decision A/DEC.3/5/82 on the ECOWAS Energy Policy;

MINDFUL of Decision A/DEC.2/12/03 on the European Energy Initiative for Poverty Eradication and Sustainable Development, amending the Regional Sectoral Poverty Reduction Strategy Paper (PRSP) so that energy programmes are included in the eligible EDF programmes and the review of National PRSP with a view to including the energy component in the priority programmes eligible for the European Development Fund (EDF);

MINDFUL of Decision A/DEC.3/12/03 on Regional Rural Electrification Programme;

MINDFUL of Decision A/DEC.24/01/06 relating to the ECOWAS/UEMOA Regional Policy on Access to Energy Services for Populations in Rural and Peri-urban Areas for Poverty Reduction in line with achieving the MDGs in Member States;

CONSIDERING of the Resolution of the Eighth Meeting of ECOWAS Energy Ministers held in Lomé on 16 November 2007, relating to the implementation of the regional policy on access to energy services.

AWARE of the challenges faced by ECOWAS and UEMOA Member States to ensure the well-being of their people and achieve the Millennium Development Goals (MDGs) by 2015, especially by halving poverty and increasing access to basic social services;

DESIRING to work towards the achievement of the objectives of the United Nations Sustainable Energy for All initiative;

ON THE RECOMMENDATION of the meeting of Ministers in charge of Energy held in Yamoussoukro, Republic of Côte d'Ivoire, on 24th May 2013;

ENACTS

Article 1

The ECOWAS Commission shall make all the necessary arrangements to mobilize the funding for the full participation of all the Member States in the Sustainable Energy for All Initiative.

Article 2

(a) The ECOWAS Commission shall ensure the alignment of the objectives of the ECOWAS/UEMOA White Paper on access to energy services with the objectives of the United Nations Sustainable Energy for All Initiative.

(b) The Commission shall also take steps to ensure the effective implementation of energy efficiency programmes in the region.

Article 3

This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan 20 - 21 JUNE 2013

REGULATION C/REG.12/06/13 RELATING TO THE ECOWAS REGIONAL INFRASTRUCTURE DEVELOPMENT PROGRAMME

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10,11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 28 and 55 of the said Treaty relating to the promotion, integration and development of energy projects in the region;

MINDFUL of Article 33 of the Treaty relating to Posts and Telecommunications, which provides that member States undertake to develop, modernize, co-ordinate and standardize their national telecommunication networks with a view to providing reliable interconnection between member States and promoting private-sector participation in the provision of telecommunications services;

MINDFUL of Decision A/DEC.13/01/03 relating to the establishment of a regional transport and transit facilitation programme in support of intra-Community trade and cross border movements;

MINDFUL of Decision A/DEC./7/01/03 adopting the ECOWAS Energy Protocol, establishing the legal framework intended to promote long term cooperation in the ECOWAS energy sector and based on complementarities and mutual benefit aimed at achieving increased investment in the energy sector and increased energy trade in the West African region;

MINDFUL of Supplementary Act A/SA.2/01/08 January 2008, establishing the ECOWAS Regional Electricity Regulatory Authority (ERERA),
MINDFUL of Council Regulation C/REG.27/12/07 on the composition, organization, functions and operation of the ECOWAS Regional Electricity Regulatory Authority (ERERA), notably its Articles 5 and 9.1;

MINDFUL of the Supplementary Act No A/SA.5/12/08 relating to the water resource policy in West Africa;

MINDFUL of the Decision A/DEC.02/05/81 relating to the harmonization of highway regulations;

MINDFUL of the Supplementary Act A/SP.17/02/12 relating to the harmonization of standards and procedures for the Control of Dimensions, Weight and Axie load of Goods vehicle within member States of the Economic Community of West African States;

MINDFUL of Supplementary Act A/SA.2/01/07 on access and interconnection of the information and Communication Technology (ICT) sector networks and services;

MINDFUL of Supplementary Act A/SA.3/01/07 on the legal regime applicable to Telecom operators and service providers;

CONSIDERING the Community framework for the Telecom and ICT sector and, in particular, Supplementary Act No A/SA.1/01/07 on the harmonization of the policies and regulatory framework of the Information and Communication Technology (ICT) sector;

MINDFUL of the Decision for the implementation of the Yamoussoukro Declaration on the liberalization of air transport markets in Africa signed in Yamoussoukro, Côte d'Ivoire, on 14th November 1999 (Yamoussoukro Decision);

RECALLING Regulation C/REG.1/01/05 relating to the establishment of an Air Transport Unit within the Executive Secretariat of the ECOWAS;

CONSIDERING Decision A/DEC.14/01/05 on the adoption of a regional telecommunication policy and development of GSM regional roaming in the ECOWAS Member States;

RECALLING Regulation C/REG.18/01/05 relating to the setting up, within the ECOWAS Commission, of a Project Development and Implementation Unit (PPDU) responsible for the development and implementation of NEPAD infrastructural projects;
RECALLING Regulation C/REG.5/08/11/10 relating to the denomination and the establishment of the rules for the functions, organization and mode of operation of the ECOWAS Project Preparation and Development Unit (PPDU);

NOTHING that infrastructural challenges of the region include deficiency in energy access and services, inadequate air services among Member States; missing links on road corridors, non-existent or dilapidated rail network; maritime and port inefficiencies; and low connectivity and high costs of the Telecommunication sector;

DETERMINED to prioritize the development of regional infrastructure projects with a view to addressing the varying infrastructural challenges facing the region;

ON THE RECOMMENDATION of the Ministers for Infrastructure, Transport, Telecommunication ICT, Energy and Water Resources of ECOWAS Member States held in Yamoussoukro, Côte d'Ivoire on 9 November 2012.

ENACTS

Article 1

The Regional Infrastructure Projects attached to this Regulation are hereby approved.

Article 2

The President of the ECOWAS Commission shall include other infrastructure sectors such as the ICT and Water Resources in the studies being undertaken for the Transport and Energy Development Find (FODETE).

Article 3

The President shall mobilize necessary resources to facilitate the implementation of the Regional Infrastructure projects approved in Article 1 of this Regulation.

Article 4

This Regulation shall be published by the ECOWAS Commission in the Official Journal of the Economic Community of West African States within thirty (30) days of its signature by the Chairman of the Council of Ministers.

It shall be published by each Member States in its National Gazette within thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN
FOR COUNCIL

ECOWAS REGIONAL INFRASTRUCTURE PROJECTS

TRANSPORT			
N°	PROJECTS	Estimated Cost (millions US$)	Implementation period
	ROAD TRANSPORT	4 622	
1	Trans African Highway(TAH) Programme (PIDA)	2 150,00	2012-2020
2	Smart Corridor Programme Phase 1(PIDA)	100,00	2012-2020
3	Dakar – Lagos Coastal Corridor (PIDA)	290,00	2012-2020
4	Dakar – Bamako – Ouagadougou- Niamey - Ndjamena Multimodal Corridor (PIDA)	590,00	2012-2020
5	Abidjan – Ouagadougou – Bamako Multimodal Corridor (PIDA)	540,00	2012-2020
6	West African Joint Border Posts Programme	200,00	2012-2020
7	Nigeria-Cameroon Multinational Highways and Transport Faciliation Programme	455,00	2012-2020
8	Construction of the Trans Gambia Bridge	80,00	2012-2017
9	Construction of 3 bridges and Rehabilitation of approach roads on the Sierra Leone section of the Dakar- Abidjan Corridor.	122,00	2012-2020

N°	PROJECTS	Estimated Cost (millions US$)	Implementation period
10	Construction of the Moa bridge on the border with Liberia	35,00	2012-2020
11	TAH5 Trans Sahelian Construction of Zinder-Nigeria Border Road and Koupela Piega-Fada Gourma Niger Border	60,00	2012-2020
4	**RAILWAYS**	**33 344,00**	
12	Constructions of 6,730 km of new rail links for 17 missing links	25 870,00	2014-2020
13	Rehabilitation of 1 641 km of existing railways	1 586,00	2014-2020
14	Cotonou-Niamey-Ouagadougou-Abidjan Railway Link	5 888,00	2014-2020
	AIR TRANSPORT	**825,00**	
15	Single African Sky Phase 1(Design and Initial Implementation) (PIDA)	275,00	2012-2020
16	Yamoussoukro Decision Implementation (PIDA)	5,00	2012-2020
17	West Africa Air Transport Programme (PIDA)	420,00	2012-2020
18	Setting up a regional Aircraft Maintenance Facility	60,00	2012-2016
19	Setting up of a regional aircraft leasing company	40,00	2012-2016
20	Setting up a regional air transport database	20,00	2012-2014

N°	PROJECTS	Estimated Cost (millions US$)	Implementation period
21	Enhancing Airports Infrastructure Equipment& Facilities in the region	5,00	2012-2016
	MARITIME TRANSPORT	**2 290,00**	
22	West African Ports Upgrading Programme (PIDA)	2 140,00	2012-2020
23	Praia – Dakar – Abidjan(PIDA) Multimodal Corridor	150,00	2012-2020
TOTAL		**41 081**	

	ICT		
	PROJECTS	**ESTIMATIVE COST (million $)**	**IMPLEMENTATION PERIOD**
24	Conducive Environmental for ICT	130,00	Continues
25	ICT Terrestrial Connectivity	770,00	2015
26	Internet Exchange Points (IXP)	25,00	2018
27	ECOWAN	130,00	2016
28	SIGTEL	10,00	2015
29	E-Post	182,00	2020
	TOTAL	**1 247**	

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June 2013

REGULATION C/REG.13/06/13 ON THE FUNCTIONING AND OPERATION OF THE ECOWAS TRIPARTITE SOCIAL DIALOGUE FORUM

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions

RECALLING the Decision of the African Union Executive Council on the Social Dialogue framework and Productivity Agenda adopted in January 2010;

MINDFUL of Chapter XI of the said Treaty which amongst other important provisions, provides for the co-operation of Member States for the full development and utilisation of human resources in the region and for the mobilisation of the various sections of our population to ensure their effective integration and involvement in the social development of the region;

MINDFUL Article 61 (2)(b) of the Treaty that provides for the harmonisation of Labour laws and social security Legislations of member States in the region;

MINDFUL of the Supplementary Act A/SA.2/09 of the ECOWAS Authority of Heads of States and Government adopting an ECOWAS Labour and Employment Policy and five-year Action Plan for its implementation;

MINDFUL the Supplementary Act A/SA.1/07/10 on the creation of a Tripartite Social Dialogue Forum within ECOWAS;

MINDFUL of the Regulation C/REG.6/05/09 of the ECOWAS Council of Ministers authorizing the convening of tripartite meetings on labour and employment matters;

CONSIDERING that by the adoption of this policy, the Authority of Heads of States and Government amongst other issues, enjoined Member States to promote social dialogue and tripartism as an efficient means of maintaining social harmony at national and regional levels since it would provide a forum for co-operation and consultation amongst stakeholders in the labour and employment market;

CONSIDERING that Social Dialogue, a vital tool for maintaining stability and social harmony in the Member States, must be consistently promoted at the levels of enterprises, and in the State;

AWARE that the implementation of the development strategies aimed at creating wealth to help provide each citizen of the ECOWAS Member States with welfare and social protection, shall be facilitated by the establishment of sustainable and quality Social Dialogue with the social partners;

ACKNOWLEDGING the need for establishing an efficient framework and a mechanism that promotes dialogue amongst relevant stakeholders in the labour sector not only at the regional level but also at the national levels;

DESIROUS therefore of further defining the operational framework and principles for the functioning of the ECOWAS Tripartite Social Dialogue Forum.

ENACTS

Article 1: Definitions

For the purpose of this Regulation, the following definitions are provided:

Community: means the Economic Community of West African (ECOWAS) States referred to under Article 2 of the 1993 ECOWAS Treaty;

Authority: means the Authority of Heads of State and Government of ECOWAS whose establishment was reaffirmed under Article 7 of the 1993 ECOWAS Treaty;

Council of Ministers: means the Council of Minsters whose establishment was reaffirmed under Article 9 of the 1993 ECOWAS Treaty;

President: means the President of the ECOWAS Commission as defined under Article 1 of the Supplementary Protocol a/sp.1/06/06 amending the 1993 ECOWAS Treaty;

ECOWAS Commission: means the Institution of ECOWAS established by Article 17 of the 1993 ECOWAS Treaty and renamed under Article 1 of the Supplementary Protocol A/SP.1/06.06 amending the 1993 ECOWAS Treaty;

Socio-Economic Actors: mean Groups referring to social partners, as defined below, including the Civil Society and representatives of economic interests;

Social Dialogue: means all types of consultations, negotiations, or simple exchange of information between the representatives of government, workers and employers' organisations on issues of common interest relating to economic and social policy;

Most Representative Employers' Organization: means the employers' organization nominated by the network of employers organizations in each Member State;

The most Representative Workers Organization: means workers organization nominated by the network of workers organization in each Member State;

Social Partners: mean Groups made up of Employers and Workers' organisations created on a regular basis;

Civil Society: means a group drawn from non profit making and non state organisations (with the exception of social partners), with the inclination to influence decision-making and react in a collective and organised manner to issues of common interest.

Regional and National Tripartite Social Dialogue Forums: means Tripartite consultative bodies at the regional and national levels (States, Employers' Organisations, Workers' organisations) that provide the framework for the harmonization of socio-economic policies, particularly with regards to work ethics, employment, professional training and other social issues necessary for social stability and development.

Stakeholders: mean ECOWAS Member States, the most representative national organisation of employers and the most representative national organisation of workers.

Article 2: Composition

Membership to the Regional Tripartite Social Dialogue Forum shall be defined in the Rules of Procedure governing operations of the Regional Forum established after a consultative process amongst Stakeholders in the Labour and employment sector.

Article 3: Operation

1. The President of the Commission shall encourage the participation of socio-economic actors in the public sector, parastatals, local governments and the private sector in the work of the Forum.

2. The President of the Commission shall also undertake the necessary measures to facilitate the operationalization of the Regional Forum by its members.

Article 4: Functions

1. The functions of the Regional Forum shall include:-

   a) promoting Social Dialogue to serve as a bedrock of the mechanisms for the prevention and resolution of social conflicts and support the establishment of tripartite partnership at the national level;

   b) enhancing the democratic process, to contribute to social harmony and stability and to serve as a fulcrum for socio-economic development at the national and regional levels;

c) fostering a better integration of the socio-economic situation and any change in the business and work environment affecting productivity of work at the national and regional levels;

d) sustaining social equilibrium at the national and regional levels by harmonising, on the one hand, the enhancement of productivity and competitiveness of the enterprises, improving work conditions and the quality of life through a constructive Social Dialogue, on the other hand;

e) promoting the establishment of social dialogue mechanisms and instruments at the national and regional levels on collective bargaining, dialogue, conciliation and consultation;

f) building capacity at the national and community levels in social legislation, collective bargaining, and international labour norms ; and

g) encouraging the dissemination of economic and social information with an impact on business and work environment.

Article 5: Basic Principles of the Regional Forum

1. The Regional Forum shall be guided in its work by the provisions of the ILO Convention on Trade Union freedom and collective bargaining.

2. It shall promote, within the framework of laws and Regulations in force in ECOWAS Member States, respect for principles relating to freedom in the work place and preservation of work tools.

3. Faith, ethics, transparency, accountability, social justice and mutual respect shall be the fundamental values of social dialogue at the national and regional levels.

Article 6: Member States' Obligations

Each Member State shall:

a) Establish and support the effective functioning of a national tripartite social dialogue frameworks;

b) Ensure compliance with undertakings and applications of decisions resulting from tripartite social dialogue at the national and regional levels.

c) Ensure the application of the legislative, regulatory and conventional texts relating to Labour Laws in their respective countries.

d) Create the enabling environment for the harmonisation of Community Labour Laws.

e) Promote sustainable enterprise as the first step for the implementation of social dialogue.

f) Each Member State may involve as Observers, relevant civil society groups as well as non-governmental and Inter-governmental organizations in the work of the national tripartite dialogue frameworks.

Article 7: Employers and Workers Obligations

Employers and Workers shall:

a) Promote social dialogue at all levels.

b) Shall comply with labour legislations at the national level

Article 8: Amendments

1. The Member States, the most representative national organisations of employers, the most representative national organisations of workers and the ECOWAS Commission may submit proposals for amendment of this Regulation.

2. The proposals for amendment shall be submitted to the President of the ECOWAS Commission who shall communicate them to the Member States, the most representative national organisations of employers, the most representative national organisations of workers and the General Assembly of the tripartite social dialogue forum not later than 30 days after receipt. On the expiration of three (3) months granted to Member States, to the most representative national

organisations of employers and to the most representative national organisations of workers to make their inputs, the General Assembly shall examine and make proposals ***for the adoption by the Council of Ministers***

Article 9: Publication

This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTÉ ÉCONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY
OF WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June 2013

REGULATION C/REG.14/06/13 RELATING TO THE ECOWAS SMALL-SCALE HYDROPOWER PROGRAM

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11, and 12 of the ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

MINDFUL of article 28 of the said ECOWAS Treaty relating to the coordination and harmonization of the Energy Policy of the Members States;

MINDFUL of Decision A/DEC.3/5/82 relating to the adoption of the ECOWAS Energy Policy, adopted by the Authority of Heads of State and Government in 1982;

MINDFUL of Decision A/DEC.17/01/03 of the Authority of ECOWAS Heads of State and Government relating to the ECOWAS Energy Protocol;

MINDFUL of Decision A/DEC.24/01/06 relating to the ECOWAS/UEMOA Regional Policy on Access to Energy Services for Populations in Rural and Suburban Areas for Poverty Reduction towards the attainment of the Millennium Development Goals (MDGs);

MINDFUL of Regulation C/REG. 23/11/08 relating to the establishment of the ECOWAS Centre for Renewable Energy and Energy efficiency (ECREEE);

CONSIDERING the Project Document on the establishment and mandate of Regional Centre for Renewable Energy and Energy Efficiency formally adopted by ECOWAS and its Partners;

MINDFUL of the objectives of the UN Sustainable Energy for All (SE4ALL) Initiative which aims at universal access to modern energy services by 2030; doubling the rate to improve energy efficiency worldwide; doubling the share of renewables in the global energy mix.

AWARE that renewable energy and energy efficiency solutions can address the challenges of energy access, energy security and climate change mitigation simultaneously and effectively in the ECOWAS region;

AWARE of the urgency to address the various existing barriers hindering the exploitation of the manifold renewable energy potentials in the ECOWAS region;

AWARE that renewable energy technologies offer increasingly interesting opportunities to meet the growing urban electricity demand and to boost access to sustainable energy services in rural areas;

AWARE that demographic growth and urbanization have resulted in an increased demand for electricity and wood-fuel;

AGREEING that there is emerging awareness on the technical and economical feasibility of exploiting the regions huge renewable energy potential;

AWARE that market trends indicate a consistent price reduction for renewable energy technologies making them more competitive and offering opportunities for the diversification of the Region's energy sources;

CONVINCED that Energy is a resource, a collective service, and at the same time, a production factor of multisectorial dimension that lies at the heart of any socio-economic development process and essential for meeting fundamental human needs (food, health, education, etc.);

CONSCIOUS of the need to improve energy security, increase access to modern energy services and support the region's economic and social development in an environmentally benign manner through the promotion and use of renewable energy and energy efficient technologies in ECOWAS member states;

UPON the recommendation of the Eleventh Meeting of ECOWAS Energy Ministers, held in Accra, Ghana on 31st October 2012;

ENACTS

Article 1

The ECOWAS Small-Scale Hydro Power Program is hereby adopted as contained in the attached Project Document which is an integral part of this Regulation.

Article 2

1) The Member States and ECOWAS shall implement Small-Scale Hydro Power Program with a view to contributing towards increased access to modern, affordable and reliable energy services through the establishment of an enabling environment for small-scale hydro power investments and markets in the ECOWAS region.

2) The following specific Programme Objective shall be achieved between 2013 and 2018:

   a) At least six ECOWAS countries will have improved their legal framework (poverty reduction impact of SSHP evidence in their legal framework, feed-in tariff defined, transparent licensing procedure etc.);

   b) Integration of SSHP into the scenarios, planning documents and budgetary allocations of ECOWAS Member States;

   c) National SSHP initiatives and projects shall increasingly rely on local expertise from public and private sector (with limited international support) with at least 1000 experts trained.

   d) Quality guidelines shall be in use and quality of SSHP project proposals and feasibility studies improved.

   e) SHPP, planning tools and all other SHPP related publications would be available on the ECREEE website.

   f) At least 10 companies would be established to provide various SSHP related services (planning, operation, repair, etc.)

g) Sustainability criteria and biodiversity offsetting will be mainstreamed throughout the planning and construction of SHP plants.

h) In addition to the construction of 5 SSHP projects which are being constructed, at least 35 additional SSHP projects per year shall be developed up to feasibility study level.

Article 3: Action Plan for the implementation of the Program

In order to achieve the program objectives outlined in Article 2 of this Regulation, activities in the following areas shall be executed:

a. Conducive policies and legal frameworks are elaborated for the various countries and their adoption is supported;

b. Priority target groups to improve their SSHP know-how through the introduction of capacity development and quality guidelines;

c. Knowledge management and awareness raising to improve accessibility to crucial information for SSHP development;

d. Investment and business promotion activities leading to planning, implementation and sustainable operation of SSHP projects and the development of a local industry.

Article 4

1. The ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE) is mandated with the execution of the ECOWAS Small-Scale Hydro Power Program in close partnership with the United Nations Industrial Development Organization (UNIDO) and other international and local partners.

2. ECREEE will ensure effective coordination of Member States and seek the technical expertise of UNIDO as a means of opening up possibilities for south-south and north-south cooperation.

Article 5

The ECOWAS Commission shall mobilise the necessary financial resources for the implementation of the Program.

Article 6: Entry into Force and Publication

This Regulation shall enter into force from the date of its signature. It shall be published by the ECOWAS Commission in the Official Journal of the Community within Thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall equally be published by each Member State in its Official Gazette within thirty (30) days upon notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY
OF WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF COUNCIL OF MINISTERS

Abidjan, 20 - 21 June 2013

REGULATION C/REG.15/06/13 RELATING TO THE ECOWAS BIOENERGY STRATEGY FRAMEWORK

THE COUNCIL OF MINISTERS;

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions

MINDFUL OF article 28 of the ECOWAS Treaty as amended relating to the coordination and harmonization of the Energy Policy of the Members States;

MINDFUL OF Decision A/DEC.3/5/82 relating to the adoption of the ECOWAS Energy Policy, adopted by the Authority of Heads of State and Government in 1982;

MINDFUL OF Decision A/DEC.17/01/03 of the Authority of ECOWAS Heads of State and Government relating to the ECOWAS Energy Protocol;

MINDFUL of Decision A/DEC 24/01/06 relating to the ECOWAS/UEMOA Regional Policy on Access to Energy Services for Populations in Rural and Suburban Areas for Poverty Reduction towards the attainment of the Millennium Development Goals (MDGs);

MINDFUL of Regulation C/REG. 23/11/08 of the sixty-first Council of Ministers relating to the establishment of the ECOWAS Centre for Renewable Energy and Energy efficiency (ECREEE);

MINDFUL of the objectives of the UN Sustainable Energy for All (SE4ALL) Initiative which aims at universal access to modern energy services by 2030; doubling the rate to improve energy efficiency worldwide; doubling the share of renewables in the global energy mix.

AWARE that renewable energy and energy efficiency solutions can address the challenges of energy access, energy security and climate change mitigation simultaneously and effectively in the ECOWAS region;

AWARE of the urgency to address the various existing barriers hindering the exploitation of the manifold renewable energy potentials in the ECOWAS region;

AWARE that renewable energy technologies offer increasingly interesting opportunities to meet the growing urban electricity demand and to boost access to sustainable energy services in rural areas;

AWARE that demographic growth and urbanization have resulted in an increased demand for electricity and wood-fuel;

AGREEING that there is emerging awareness on the technical and economical feasibility of exploiting the regions huge renewable energy potential;

AWARE that market trends indicate a consistent price reduction for renewable energy technologies making them more competitive and offering opportunities for the diversification of the Region's energy sources;

CONVINCED that Energy is a resource, a collective service, and at the same time, a production factor of multisectorial dimension that lies at the heart of any socio-economic development process and essential for meeting fundamental human needs (food, health, education, etc.);

CONSCIOUS of the need to improve energy security, increase access to modern energy services and support the region's economic and social development in an environmentally benign manner through the promotion and use of renewable energy and energy efficient technologies in ECOWAS member states;

ON THE RECOMMENDATION of the Eleventh Meeting of ECOWAS Energy Ministers, held in Accra, Ghana on 31st October 2012;

ENACTS

ARTICLE 1

The **ECOWAS Bioenergy Strategy Framework** attached to this Regulation is hereby adopted.

ARTICLE 2

The Member States and ECOWAS shall implement the activities within the ECOWAS Bioenergy Strategy Framework, which itself is part of the objectives of the ECOWAS / UEMOA White Paper to increase access to energy services for rural and pre-urban populations and its Plan of Action and strategy implementation.

ARTICLE 3

1. The overall objective of the ECOWAS Bioenergy Strategy Framework is to enhance the sustainable Bioenergy production and use within the Region that help address energy poverty, particularly in the rural and peri-urban populations, promote food security, safeguard the environment, and enabling domestic and foreign investments, thereby contributing to:

- universal access to modern energy services, especially in the rural and peri-urban areas by 2030
- A more sustainable and safe provision of domestic energy services for cooking thus achieving the objectives of the White Paper for access to modern energy services by 2020 and
- Increasing food security within the region.

2. The primary objectives are to:

- Promote the transition from the traditional use of biomass towards a modern, efficient production and use of modern Bioenergy;
- broaden regional dialogue and peer-to-peer learning to support the development of Bioenergy strategies in the ECOWAS Member States and,
- Promote regional policy planning for Bioenergy harmonized with national policies;
- sensitize and share experiences on modern sustainable Bioenergy production that also promotes food security;
- create a vibrant and sustainable modern Bioenergy sector that promotes economic growth, rural development, and poverty alleviation.

ARTICLE 4

The implementation of the Regional Bioenergy Strategy Framework would be premised on the following key components:

- Resource Assessment and Planning through assessment of Resources and mapping, cataloguing experiences and sharing of experiences;
- Policies and Strategies development for bioenergy products and services, including legal and regulatory frameworks, and standards and labels;
- Knowledge sharing for information dissemination and awareness creation;
- Capacity building for relevant public and private institutions and agencies to provide the necessary human resources for technology transfer and employment creation; and
- Financing mechanisms and resource mobilization to assist the deployment of sustainable Bioenergy products and services.
- The civil society and private sector will be important partners in the implementation of the framework
- Linkages between bioenergy, food security and integrated water management will be made

ARTICLE 5

The ECOWAS Commission shall mobilise the necessary financial resources for the implementation of the Strategy Framework.

ARTICLE 6

The **ECOWAS Centre for Renewable Energy and Energy Efficiency (ECREEE)** is mandated to ensure effective coordination of Member States and Development Partners for the implementation of the ECOWAS Bioenergy Strategy Framework.

ARTICLE 7

This Regulation shall enter into force from the date of its signature. It shall be published by the ECOWAS Commission in the Official Journal of the Community within Thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall equally be published by each Member State in its Official Gazette within thirty (30) days upon notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

Seventieth Ordinary Session of the Council of Ministers

Abidjan, 20 – 21 June 2013

REGULATION C/REG.16/06/13 ADOPTING THE 2011 AUDITED FINANCIAL STATEMENTS OF THE ECOWAS PARLIAMENT

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 75 of the Treaty appointing the External Auditors of ECOWAS Institutions;

MINDFUL of the Financial Regulations and Manual of Accounting Procedures of the Institutions of ECOWAS, as amended by Regulation C/REG.2/12/95;

MINDFUL of Decision A/DEC.19/01/06 appointing the firm KPMG/Ghana as the External Auditors of the Community Institutions;

MINDFUL of the contract between ECOWAS and the firm, KPMG/Ghana, signed on 21st August 2012 relating to the conditions under which the services of the External Auditors of the Community Institutions shall be provided;

AFTER CONSIDERING the report of the firm, KPMG/Ghana, on the 2011 financial statements of the Community Court of Justice;

ON THE RECOMMENDATION of the Twenty-seventh Meeting of the Audit Committee, held in Abidjan from 10th – 15th June 2013;

ENACTS

ARTICLE 1:

The audited financial statements of the Community Court of Justice for 2011 is hereby adopted.

ARTICLE 2:

This Regulation shall be published in the Official Journal of the Community by the ECOWAS Commission within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published within the same timeframe by each Member State in its Official Gazette.

DONE AT ABIDJAN, THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

Seventieth Ordinary Session of the Council of Ministers

Abidjan, 20 – 21 June 2013

REGULATION C/REG.17/06/13 ADOPTING THE 2011 AUDITED FINANCIAL STATEMENTS OF THE COMMUNITY COURT OF JUSTICE

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 75 of the Treaty appointing the External Auditors of ECOWAS Institutions;

MINDFUL of the Financial Regulations and Manual of Accounting Procedures of the Institutions of ECOWAS, as amended by Regulation C/REG.2/12/95;

MINDFUL of Decision A/DEC.19/01/06 appointing the firm KPMG/Ghana as the External Auditors of the Community Institutions;

MINDFUL of the contract between ECOWAS and the firm, KPMG/Ghana, signed on 21st August 2012 relating to the conditions under which the services of the External Auditors of the Community Institutions shall be provided;

AFTER CONSIDERING the report of the firm KPMG/Ghana, on the 2011 financial statements of the Community Court of Justice;

ON THE RECOMMENDATION of the Twenty-Seventh Meeting of the Audit Committee, held in Abidjan from 10th – 15th June 2013;

ENACTS

ARTICLE 1:

The audited financial statements of the Community Court of Justice for 2011 is hereby adopted.

ARTICLE 2:

This Regulation shall be published in the Official Journal of the Community by the ECOWAS Commission within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published within the same timeframe by each Member State in its Official Gazette.

DONE AT ABIDJAN, THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

Seventieth Ordinary Session of the
Council of Ministers

Abidjan, 20 – 21 June 2013

REGULATION C/REG.18/06/09 ADOPTING THE 2011 AUDITED FINANCIAL STATEMENTS OF THE INTER-GOVERNEMENTAL ACTION GROUP AGAINST MONEY LAUNDERING IN WEST AFRICA (GIABA)

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 75 of the Treaty appointing the External Auditors of the Institutions of ECOWAS;

MINDFUL of the Financial Regulations and Manual of Accounting Procedures of the Institutions of ECOWAS, as amended by Regulation C/REG.2/12/95;

MINDFUL of Decision A/DEC.1/02/12 appointing the firm KPMG/Ghana as the External Auditors of the Institutions of the Community;

MINDFUL of the contract between ECOWAS and the firm, KPMG/Ghana, signed on 21st August 2012 relating to the conditions under which the services of the External Auditors of the Community Institutions shall be provided;

AFTER CONSIDERING the report of the firm, KPMG/Ghana on the 2011 financial statements of the Inter-governmental Action Group against Money Laundering in West Africa;

ON THE RECOMMENDATION of the Twenty-seventh Meeting of the Audit Committee, held in Abidjan from 10th – 15th June 2013;

ENACTS

ARTICLE 1:

The audited financial statements of the Inter-governmental Action Group against Money Laundering in West Africa for 2011 is hereby adopted.

ARTICLE 2:

This Regulation shall be published in the Official Journal of the Community by the ECOWAS Commission within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published within the same timeframe by each Member State in its Official Gazette.

DONE AT ABIDJAN, THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

Seventieth Ordinary Session of the Council of Ministers

Abidjan, 20 – 21 June 2013

REGULATION C/REG.19/06/09 ADOPTING THE 2011 AUDITED FINANCIAL STATEMENTS OF THE ECOWAS GENDER DEVELOPMENT CENTRE

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 75 of the Treaty appointing the External Auditors of ECOWAS Institutions;

MINDFUL of the Financial Regulations and Manual of Accounting Procedures of the Institutions of ECOWAS, as amended by Regulation C/REG.2/12/95;

MINDFUL of Decision A/DEC.19/01/06 appointing the firm KPMG/Ghana as the External Auditors of the Community Institutions;

MINDFUL of the contract between ECOWAS and the firm, KPMG/Ghana, signed on 21st August 2012 relating to the conditions under which the services of the External Auditors of the Community Institutions shall be provided;

AFTER CONSIDERING the report of the firm, KPMG/Ghana, on the 2011 financial statements of the ECOWAS Gender Development Centre;

ON THE RECOMMENDATION of the Twenty-seventh Meeting of the Audit Committee, held in Abidjan from 10th – 15th June 2013;

ENACTS

ARTICLE 1:

The audited financial statements of the ECOWAS Gender Development Centre for 2011 is hereby adopted.

ARTICLE 2:

This Regulation shall be published in the Official Journal of the Community by the ECOWAS Commission within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published within the same timeframe by each Member State in its Official Gazette.

DONE AT ABIDJAN, THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

Seventieth Ordinary Session of the Council of Ministers

Abidjan, 20 – 21 June 2013

REGULATION C/REG.20/06/13 ADOPTING THE 2011 AUDITED FINANCIAL STATEMENTS OF THE ECOWAS REGIONAL CENTRE FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY (ECREEE)

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 75 of the Treaty appointing the External Auditors of the ECOWAS Institutions;

MINDFUL of the Financial Regulations and Manual of Accounting Procedures of the Institutions of ECOWAS, as amended by Regulation C/REG.2/12/95;

MINDFUL of Decision A/DEC.1/02/12 appointing the firm KPMG/Ghana as the External Auditors of the Community Institutions;

MINDFUL of the contract between ECOWAS and the firm, KPMG/Ghana signed on 21st August 2012 relating to the conditions under which the services of the External Auditors of the Community Institutions shall be provided;

AFTER CONSIDERING the report of the firm, KPMG/Ghana on the 2011 financial statements of the ECOWAS Commission;

ON THE RECOMMENDATION of the Twenty-seventh meeting of the Audit Committee, held in Abidjan from 10th – 15th June 2013;

ENACTS

ARTICLE 1:

The audited financial statements of the ECOWAS Regional Centre for Renewable Energy and Energy Efficiency (ECREEE) for 2011 is hereby adopted.

ARTICLE 2:

This Regulation shall be published in the Official Journal of the Community by the ECOWAS Commission within thirty (30) days of its signature by the Chairman of the Council of Ministers, It shall also be published within the same timeframe each Member State in its Official Gazette.

DONE AT ABIDJAN, THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

Seventieth Ordinary Session of the Council of Ministers

Abidjan, 20 – 21 June 2013

REGULATION C/REG.21/06/13 ADOPTING THE 2011 AUDITED FINANCIAL STATEMENTS OF THE ECOWAS REGIONAL ELECTRICITY REGULATORY AUTHORITY FOR THE 2011 FINANCIAL YEAR

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended in June 2006, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 75 of the Treaty appointing the External Auditors of ECOWAS Institutions;

MINDFUL of the Financial Regulations and Manual of Accounting Procedures of the Institutions of ECOWAS, as amended by Regulation C/REG.2/12/95;

MINDFUL of Decision A/DEC.19/01/06 appointing the firm KPMG/Ghana as the External Auditors of the Community Institutions;

MINDFUL of the contract between ECOWAS and the firm, KPMG/Ghana, signed on 21st August 2012 relating to the conditions under which the services of the External Auditors of the Community Institutions shall be provided;

AFTER CONSIDERING the report of the firm, KPMG/Ghana, on the 2011 financial statements of the ECOWAS Parliament;

ON THE RECOMMENDATION of the Twenty-seventh Meeting of the Audit Committee, held in Abidjan from 10th – 15th June 2013;

ENACTS

ARTICLE 1

The audited financial statements of the ECOWAS Regional Electricity Regulatory Authority for 2011 is hereby adopted.

ARTICLE 2

This Regulation shall be published in the Official Journal of the Community by the ECOWAS Commission within thirty (30) days of its signature by the Chairman of the Council of Ministers. It shall also be published within the same timeframe by each Member State in its Official Gazette.

DONE AT ABIDJAN, THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTÉ ÉCONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY
OF WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June 2013

REGULATION C/REG.25/06/13 APPROVING THE DEVELOPMENT OF AN ENERGY SECTOR EMERGENCY SUPPORT PROGRAMME FOR THE GAMBIA, MALI AND SIERRA LEONE

THE COUNCIL OF MINISTERS

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended, establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Articles 28 and 55 of the said Treaty relating to the promotion, integration and development of energy projects and cooperation in the energy sectors of the Member States of the Community;

MINDFUL of Protocol A/P4/1/03 of 31 January 2003, hereafter referred to as the ECOWAS Energy Protocol establishing the legal framework intended to promote long term cooperation in the ECOWAS energy sector, and based on complementarities and mutual benefit aimed at achieving increased investment in the energy sector and increased energy trade in the West African region;

MINDFUL of Supplementary Act A/SA.4/01/08 of 18 January 2008 adopting the Emergency Power Supply Security Plan (EPSSP);

CONSIDERING the requests made by some Member States to the ECOWAS Commission to provide them financial support for the implementation of an emergency power supply programme;

CONSIDERING that the financial support the ECOWAS Commission provided to two Member States for the implementation of emergency measures to improve power supply, namely Guinea Bissau and Guinea are not sufficient;

RECALLING the Directive of the 42th Session of the Authority of Heads of State and Government which held from 27th to 28th February 2013 in Yamoussoukro (Cote d'Ivoire) to consider the requests of the Gambia (USD 31.90 million), Mali (54.34 million), and Sierra Leone (21.8 million) for assistance in the implementation of emergency power programmes;

ANXIOUS of the challenges faced by some of the ECOWAS Member States in the sector of energy;

DESIROUS of providing a sustainable solution to the energy crisis through an emergency support to the Gambia (USD 31.90 million), Mali (USD 54.34 million), and Sierra Leone (USD 21.8 million) in order to implement emergency power supply programmes;

ON THE RECOMMENDATION of the tenth Energy Ministers meeting which held in Yamoussoukro, Republic of Côte d'Ivoire, on 24th May 2013:

ENACTS

Article 1

The requests of the Gambia for the funding of USD 31.90 million, of Mali for 54.34 million, and Sierra Leone for 21.8 million for assistance in the implementation of emergency energy programmes is hereby approved.

Article 2

The ECOWAS Commission shall mobilize the necessary resources for the implementation of the identified projects, as well as develop eligibility criteria for access to future special programmes.

Article 3

This Regulation shall be published by the Commission in the official journal of the community within thirty (30) days of its signature by the President of the Council of Ministers. It shall equally be published by each member state in her official journal thirty (30) days after notification by the Commission.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

.....

H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS OF ECOWAS

DIRECTIVE C/DIR.1/06/13 ON THE ORGANIZATION OF THE REGIONAL ELECTRICITY MARKET

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty, as amended establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Articles 28, and 55 of the said ECOWAS Treaty relating to the promotion, cooperation, integration and development of energy projects and energy sectors of the Member States of the Community within the framework of creating a customs union and an economic and monetary union;

MINDFUL of Protocol A/P.1/7/91 as amended, relating to the Court of Justice of the Community;

MINDFUL of Protocol A/P2/8/94 as amended, relating to the Parliament of the Community;

MINDFUL of Protocol A/P4/1/03 hereinafter referred to as the "ECOWAS Energy Protocol", establishing the legal framework to promote long term cooperation in the ECOWAS energy sector based on complementarities and mutual benefit with a view to achieving increased investment in the energy sector and increased energy trade in the West African sub region;

MINDFUL of the Supplementary Act A/SA.2/01/08 establishing the ECOWAS Regional Electricity Regulatory Authority (ERERA);

MINDFUL of Regulation C/REG.27/12/07 as amended, concerning the Composition, Organization, Functions and Operations of the ECOWAS Regional Electricity Regulatory Authority (ERERA);

MINDFUL of Decision A/DEC.5/12/99 relating to the establishment of a West African Power Pool (WAPP);

CONSIDERING the fact that currently, because of the structural differences in national electricity sector within ECOWAS Member States, there are different structures for the regulation of the electricity sector;

ACKNOWLEDGING the need to set up a regional regulatory body with the principal objective of developing an attractive investment climate for investors and for the development of cross-border trade within the ECOWAS electricity sector;

CONVINCED that regional electricity regulation and open access to regional transmission network are imperative for the efficient operation and monitoring of cross-border electricity trade and constitute a necessary condition for the development of the regional electricity market;

NOTING that the regional electricity market must be developed gradually to enable national electricity sectors adapt in a gradual and rational manner the current diversity in the way they are organized;

DESIRING to promote a regional approach to cross-border electricity trade and to ensure the harmonization of institutions and rules within ECOWAS, with a view to organizing the regional electricity market and creating favorable conditions for the development of investment and capacity within the member States of ECOWAS;

UPON THE RECOMMENDATION of the Tenth Meeting of Ministers of Energy of the Member States of ECOWAS, held in Yamoussoukro, Côte d'Ivoire on 24th May 2013;

ADOPTS:

Article 1: Definitions

For the purposes of this directive, the under-listed definitions are applicable:

CROSS-BORDER ELECTRICITY TRADE AGREEMENT
Agreement made, within the framework of the regional electricity market, between a seller and a buyer, for the delivery of electricity, using a Transmission Network and cross-border interconnection by which the seller is committed to transfer the volume of electricity agreed to the buyer within the prescribed interval or intervals and at an agreed price;

CROSS BORDER INTERCONNECTION
The lines that connect two or more national transmission networks and connecting the power systems of at least two ECOWAS Member States, including metering equipment placed on the Regional Transmission Network nodes located in each of the participating Member States.

ELECTRICITY EXPORT
Sale or supply agreement for electricity to a State other than that in which electricity is produced and whose delivery requires the use of a Cross-Border interconnection;

ELECTRICITY IMPORT
Purchase agreement of electricity from a State other than that in which the electricity is produced and whose delivery requires the use of a cross-border interconnection;

ELECTRICITY SECTOR
All the activities of generation, transmission, import, export, distribution and marketing of electricity, as well as all the stakeholders involved in these activities in any given Member State or through ECOWAS, including national and regional institutions, utilities and consumers;

ERERA
ECOWAS Regional Electricity Regulatory Authority - the body mandated to regulate the regional electricity market, as defined by Regulation C/REG.27/12/07 on the Composition, Organization, Functions, and Operations of the ECOWAS Regional Electricity Regulatory Authority;

REGIONAL ELECTRICITY MARKET
All cross-border electricity trading and related services made through the regional interconnected transmission networks within the ECOWAS sub-region;

REGIONAL MARKET RULES
Rules made by competent authorities of ECOWAS governing the regional electricity market;

REGIONAL TRANSMISSION NETWORK
All lines and transmission substations duly declared by WAPP as constituting the Regional Transmission Network; These lines include specially regional interconnections, regional lines owned by Specific Purpose Companies of the WAPP and lines of national systems being part of the Regional Transmission System.

THIRD STATE
Any State other than the Member States of ECOWAS.

TRANSMISSION NETWORK
All high voltage lines and related equipment for the transmission of electricity, which facilitate delivery to eligible customers or to distributors, in the context of cross-border electricity exchanges;

TRANSMISSION OPERATOR
The company responsible for maintaining the assets of the transmission network, operating and conducting Transmission System.

WAPP
West African Power Pool, a specialized institution of ECOWAS established by Decision A/DEC.20/01/06 of January 12, 2006, by the Conference of Heads of State and Governments, with a responsibility to develop electricity infrastructure and establish a unified electricity market.

Article 2: Objective

The aim of this Directive is to provide the general principles to govern the Regional Electricity Market within the framework of the ECOWAS Energy Protocol.

Article 3: Scope

This Directive relates to the general organization and operation of the regional electricity market principles specified below:

(1) Regional Market Design and Market Phases;

(2) Open Access to the Regional Transmission Network and access by Eligible Customers;

(3) Harmonization of cross-border contractual arrangements relating to:

(a) Cross-border electricity trade between a buyer and a seller within ECOWAS Member States, for import and export of electricity.

(b) Access, interconnection and use of the Regional Transmission Network.

Article 4: Market Design

In line with the principles of the ECOWAS Energy Protocol, the development and establishment of the regional electricity markets shall evolve according to the WAPP Market Design approved by ERERA.

Article 5: Conditions Precedent for evolution of Market Design

ERERA shall in consultation with stakeholders determine the conditions precedent for the evolution of the market from one phase to the next. Member Sates shall be duly notified of these conditions to allow for the adaption of national markets and regulatory frameworks required to give effect to the realization of the regional market.

Article 6: Tariff methodology

The cross border transmission of electricity tariffs are settled according to a methodology published by ERERA in accordance with its procedures after consultation of the stakeholders.

Article 7: Regional Transmission Network Open Access

(1) In accordance with Article 7 of the Energy Protocol which provides for freedom of transit (open access) for electric power, Member States are obliged to ensure the development and implementation of the legal and operational framework to give effect to this principle.

(2) Accordingly, Member States shall ensure that the following conditions deemed necessary for open access to the regional

transmission network are met within the period specified by this directive:

(a) Generation, transmission and distribution functions are at least functionally and financially independent allowing for separation of costs.

(b) The existing Electricity Acts and relevant Regulations of Member States must be adapted to provide for open access to regional transmission network. Conditions of eligibility for major consumers shall be defined by Regulation.

(c) The licensing conditions and procedures for new Independent Power Provider (IPP) should be made simpler and more attractive.

(3) ERERA shall specify by way of Regulation specific conditions for third party access to the Regional Transmission Network after due consultations with Stakeholders.

Article 8: Harmonization of Contracts

(1) Model bi-lateral Contracts

(a) ERERA shall provide stakeholders in the Regional Market, model long-term and medium term bi-lateral contracts after consultation with key stakeholders. The Model Agreements shall serve as the basic framework that shall guide contracting parties. The parties to the contract shall however be at liberty to negotiate the specific terms of their agreement.

(b) Where parties fail to reach an agreement on specific clauses of their Agreement, the relevant clause of the Model Agreement shall be adopted by the parties.

(2) Connection and Use of Network Agreements

(a) WAPP shall in consultation with the transmission system operators of Member States develop a standard Connection and Use of Network Agreement for access to the Regional Transmission Network.

(b) ERERA shall approve the standard connection and Use of Network Agreement after consultation with the national regulatory authorities.

(3) Approval

(a) All such Contracts entered into between parties shall be submitted to ERERA for approval for such Agreements to be effective.

(b) ERERA shall within a period of sixty (60) calendar days take a decision on the contracts submitted for approval. After this period, any other act notwithstanding, without any decision of ERERA, the contract is deemed approved.

(c) ERERA may, following the review of the contacts make recommendations for the deletion, modification or addition of one or more terms of the contract.

(d) Parties within the Regional Electricity Market are required to inform ERERA of any contract, agreement or protocol in force on cross-border exchanges in electricity. Parties are also required to notify ERERA of any proposed contract for cross-border electricity exchanges.

Article 9: Sanctions

(1) All cross-border electricity trade agreements in violation of the Rules of the Regional Market and the provisions of this Directive shall be void.

(2) Failure by the Regional Market participants to respect the provisions of this Directive shall result in penalties in line with Regulation C/REG.27/12/07, adopted by the ECOWAS Council of Ministers on December 15, 2007, which are applicable in accordance with the terms and conditions specified by Article 30 of the Regulation, without prejudice to the remedies indicated particularly in Article 31 thereof.

Article 10: Strengthening of National Regulatory Authorities

(1) In order to ensure the smooth operation of the regional market, Member States are mandated to establish an independent regulatory authority where none exists.

(2) The powers of the national regulators shall be expanded to include market monitoring and tariffs setting.

(3) To protect the independence of the regulatory authority, Member States shall in particular provide the regulatory authority with legal personality, budgetary autonomy and adequate human and financial resources to carry out its duties.

(4) The national regulatory authorities shall give full support to ERERA for the implementation of the provisions of this Directive by ensuring the efficient functioning of their national markets and the regional market to promote effective competition.

Article 11: Obligations of Member States

(1)Member States shall take all measures necessary to comply with this Directive and bring into force the laws, regulations and administrative provisions required to give effect to this Directive not later than twenty–four (24) months after the directive comes into force.

(2)Member States are required to remove or adapt any legislative or regulatory provision barring the application of this Directive, particularly to do with ERERA's powers as provided by Supplementary Act A/SA.2/01/08 adopted by the Conference of Heads of State and Governments and Regulation C/REG.27/12/07 adopted by the Council of Ministers of ECOWAS.

(3)Any legislation or Regulation of Member States in relation to the application of this Directive should include a specific reference or a copy annexed thereto in the official publication.

(4)Member States shall notify ERERA of the provisions or measures taken to comply with this Directive.

Article 12: Challenges in implementation

(1)Member States shall notify ERERA of any challenges encountered in the implementation of this Directive.

(2)ERERA shall submit these challenges to the next session of the Council of Ministers.

Article 13: Publication

This Directive shall be published in the Official Journal of the Community within thirty (30) days from the date of its signature by the Council of Ministers.

It shall also be published by each Member State in its Official Journal within the same period.

Article 14: Transitional period

Cross-Border electricity trade agreements which are effective on the date of publication of this Directive, as well as contracts in transition or associated with it, shall continue to be in effect until the end of the term originally agreed by the parties.

However, in the event of any review of such contracts, the parties shall endeavor to comply with the provisions of this Directive.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 - 21 June, 2013

RECOMMENDATION C/REG.1/06/13 RELATING TO THE ESTABLISHMENT OF THE INTEGRATION COMMUNITY LEVY

THE COUNCIL OF MINISTERS,

MINDFUL to articles 10, 11, and 12 of the ECOWAS Revised Treaty creating the Council of Ministers and defining its composition and functions;

MINDFUL to article 72 of the said Treaty establishing the Community levy to generate resources for the financing of Community activities;

MINDFUL to articles 35, 36, and 37 of the Treaty relative to trade liberalization, customs duties, and the common external tariff concerning all imported products from third countries into member states with the view to establishing a customs union in the community;

MINDFUL to Protocol A/P1/7/96 relating to conditions for the application of the community levy;

MINDFUL of Decision A/DEC/10/01/03 relating to the postponement of the entry into force of the regime of full right of the community levy;

MINDFUL of Regulation C/REG.1/9/03 on the adoption of measures to facilitate, accelerate, and render effective the application of the community levy;

MINDFUL of Decision A/DEC.17/01/06 adopting the ECOWAS Common External Tariff, notably article 9 which authorizes the Council of Ministers through regulation to determine the list of products, tax base, rate, and the duration of the application of the import safeguard tax;

MINDFUL of Decision A/DEC.14/01/06 on the creation, organization, and functioning of the joint ECOWAS-UEMOA committee for the management of the ECOWAS Common External Tariff (CET);

MINDFUL of the Supplementary Act A/SA.1/06/09 on the amendment to the Decision A/DEC.17/01/06 on the adoption of the ECOWAS Common External Tariff (CET);

MINDFUL of Regulation C/REG.1/5/09 on the adoption of the 2007 version of the Harmonized Commodity Description and Coding System (HS);

CONVINCED that the application of the ECOWAS Common External Tariff will facilitate the establishment of an effective community mechanism that will strengthen and sustain the financing of integration efforts in West Africa;

DESIROUS to find the most effective and less costly means of generating resources to finance integration efforts of West Africa and establish the appropriate mechanism for this purpose;

ON THE PROPOSAL of the 12th meeting of the joint ECOWAS-UEMOA committee for the management of the ECOWAS Common External Tariff held in Abidjan from 11 to 14 December 2012;

UPON THE RECOMMENDATION of the fifty-first meeting of the Technical Committee on Trade, Customs, and Free Movement held in Praia on 18-19 March 2013;

RECOMMEND to the Authority of Heads of State and Government the adoption of the attached Draft Supplementary Act establishing the integration Community Level.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN
FOR COUNCIL

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June 2013

RECOMMENDATION C/REC.2/06/13 RELATING TO THE ESTABLISHMENT AND IMPLEMENTATION OF JOINT BORDER POSTS WITHIN MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES

THE COUNCIL OF MINISTERS;

MINDFUL articles 10, 11, and 12 of the ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 32 of the said Treaty which provides for the adoption of common transport and communication policies laws and Regulations as a means of ensuring harmonious integration of the physical infrastructure of Member States and the promotion and facilitation of movement of persons, goods and services within the Community;

MINDFUL of Protocol A/P.1/5/79 of 29th May 1979 as amended relating to Free Movement of Persons, Residence and Establishment;

MINDFUL of the ECOWAS Decision A/DEC 20/5/80 of the Authority of Heads of State and Government of May 18th, 1980 relating to the Community Transport Program;

MINDFUL of Convention A/P4/5/82 on inter-State Road Transit of Goods;

MINDFUL of the ECOWAS Convention No A/P2/5/82 of 29 May 1982 regulating inter-State Road Transportation between ECOWAS Member States;

MINDFUL of Convention A/P5/5/82 of May 29th, 1982 for mutual administrative assistance on customs matters;

MINDFUL of Decision C/DEC.8/12/88 of the Council of Ministers on the second phase of ECOWAS road projects relating to interconnecting roads for the opening up of the landlocked countries;

MINDFUL of Protocol A/SP1/5/90 of May 30th, 1990 establishing within the Community, a guarantee mechanism for inter-State road transit of goods operations;

MINDFUL of Convention A/P.1/7/92 of 29 July 1992 relating to mutual assistance in criminal matters;

MINDFUL of Convention A/P.1/8/94 of 06 August 1994 on extradition;

MINDFUL of the ECOWAS Decision A/DEC.13/01/03 of January 31st, 2003 relating to the implementation of the Regional Road Transits Facilitation Program;

MINDFUL of the Yamoussoukro Resolution n°2 of September 4th, 2008 of Ministers of Transport on the implementation of the Joint Border Posts Program in ECOWAS and UEMOA member States;

MINDFUL of Supplementary Act/SP.17/02/12 relating to the harmonization of standards and procedures for the control of dimensions, weight and axle load of goods vehicle within Member States of the Economic Community of West Africa.

CONSIDERING provisions of the United Nations Convention relating to rights of transit trade for landlocked countries signed in New York on July 8th, 1985;

NOTING THAT the current organization and management of border posts pose obstacles to the flow of transport and transit within and between the Community Member States;

NOTING ALSO that the trade and free movement of persons and goods within the Community can be achieved by establishing joint border posts;

ACKNOWLEDGING the need to reinforce cooperation between ECOWAS Member States with the view to speeding up the economic integration of West Africa;

DETERMINED to provide a legal framework for Joint Border Posts within the Community in order to enhance trade and transit facilitation at national borders of the Member States.

ON PROPOSAL of the Experts meeting of Member states held in Grand-Bassam (Cote d'Ivoire) from 22 to 23 October 2012;

RECOMMEND to the Authority of Heads of States and Government to adopt the attached Draft Supplementary Act establishing the Joint Border Posts within Member States of the Economic Community of West African States (ECOWAS).

DONE AT ABIDJAN THIS 21ST DAY OF JUNE2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June 2013

RECOMMENDATION REC.3/06/13 ON THE ECOWAS ENERGY EFFICIENCY POLICY

THE COUNCIL OF MINISTERS,

MINDFUL articles 10, 11, and 12 of the ECOWAS revised Treaty establishing the Council of Ministers and defining its composition and functions;

MINDFUL OF article 28 of the revised Treaty relating to the coordination and harmonization of the Energy Policy of the Members States;

MINDFUL OF Decision A/DEC.3/5/82 relating to the adoption of the ECOWAS Energy Policy, adopted by the Authority of Heads of State and Government in 1982;

MINDFUL OF Decision A/DEC.17/01/03 of the Authority of ECOWAS Heads of State and Government relating to the ECOWAS Energy Protocol;

MINDFUL of Decision A/DEC.24/01/06 relating to the ECOWAS/UEMOA Regional Policy on Access to Energy Services for Populations in Rural and Suburban Areas for Poverty Reduction towards the attainment of the Millennium Development Goals (MDGs);

MINDFUL of Regulation C/REG. 23/11/08 of the sixty-first Council of Ministers relating to the establishment of the ECOWAS Centre for Renewable Energy and Energy efficiency (ECREEE);

CONSIDERING the Project Document on the establishment of Regional Centre for Renewable Energy and Energy Efficiency formally adopted by ECOWAS and its Partners;

MINDFUL of Supplementary Act A/SA.9/12/08, December 2008 relating to the Headquarters of ECREEE;

MINDFUL of Enabling Rule PEC/ER/1/01/11 Relating to the Organisation and Operation of ECREEE;

MINDFUL OF the objectives of the UN Sustainable Energy for All (SE4ALL) Initiative which aims at universal access to modern energy services by 2030; doubling the rate to improve energy efficiency worldwide; doubling the share of renewables in the global energy mix.

AWARE that renewable energy and energy efficiency solutions can address the challenges of energy access, energy security and climate change mitigation simultaneously and effectively in the ECOWAS region;

AWARE of the urgency to address the various existing barriers hindering the exploitation of the manifold renewable energy potentials in the ECOWAS region;

AWARE that renewable energy technologies offer increasingly interesting opportunities to meet the growing urban electricity demand and to boost access to sustainable energy services in rural areas;

AWARE that demographic growth and urbanization have resulted in an increased demand for electricity and wood-fuel;

AGREEING that there is emerging awareness on the technical and economical feasibility of exploiting the regions huge renewable energy potential;

AWARE that market trends indicate a consistent price reduction for renewable energy technologies making them more competitive and offering opportunities for the diversification of the Region's energy sources;

CONVINCED that Energy is a resource, a collective service, and at the same time, a production factor of multisectorial dimension that lies at the heart of any socio-economic development process and essential for meeting fundamental human needs (food, health, education, etc.);

CONSCIOUS of the need to improve energy security, increase access to modern energy services and support the region's economic and social development in an environmentally benign manner through the promotion and use of renewable energy and energy efficient technologies in ECOWAS member states;

ON PROPOSAL of the Seventieth Session of the Council of Ministers which held in Abidjan from 20 – 21 June 2013;

RECOMMEND to the Authority of Heads of States and Government to adopt the attached Draft Supplementary Act e on the ECOWAS Energy Efficiency Policy.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 – 21 June 2013

RECOMMANDATION REC.4/06/13 13 ON THE ECOWAS RENEWABLE ENERGY POLICY

THE COUNCIL OF MINISTERS;

MINDFUL articles 10, 11, and 12 of the ECOWAS revised Treaty establishing the Council of Ministers and defining its composition and functions;

MINDFUL OF Decision A/DEC.3/5/82 relating to the adoption of the ECOWAS Energy Policy, adopted by the Authority of Heads of State and Government in 1982;

MINDFUL OF Decision A/DEC.17/01/03 of the Authority of ECOWAS Heads of State and Government relating to the ECOWAS Energy Protocol;

MINDFUL of Decision A/DEC.24/01/06 relating to the ECOWAS/UEMOA Regional Policy on Access to Energy Services for Populations in Rural and Suburban Areas for Poverty Reduction towards the attainment of the Millennium Development Goals (MDGs);

MINDFUL of Regulation C/REG. 23/11/08 of the sixty-first Council of Ministers relating to the establishment of the ECOWAS Centre for Renewable Energy and Energy efficiency (ECREEE);

CONSIDERING the Project Document on the establishment of Regional Centre for Renewable Energy and Energy Efficiency formally adopted by ECOWAS and its Partners;

MINDFUL of Supplementary Act A/SA.9/12/08, December 2008 relating to the Headquarters of ECREEE;

MINDFUL of Enabling Rule PEC/ER/1/01/11 Relating to the Organisation and Operation of ECREEE;

MINDFUL OF the objectives of the UN Sustainable Energy for All (SE4ALL) Initiative which aims at universal access to modern energy services by 2030; doubling the rate to improve energy efficiency worldwide; doubling the share of renewables in the global energy mix.

AWARE that renewable energy and energy efficiency solutions can address the challenges of energy access, energy security and climate change mitigation simultaneously and effectively in the ECOWAS region;

AWARE of the urgency to address the various existing barriers hindering the exploitation of the manifold renewable energy potentials in the ECOWAS region;

AWARE that renewable energy technologies offer increasingly interesting opportunities to meet the growing urban electricity demand and to boost access to sustainable energy services in rural areas;

AWARE that demographic growth and urbanization have resulted in an increased demand for electricity and wood-fuel;

AGREEING that there is emerging awareness on the technical and economical feasibility of exploiting the regions huge renewable energy potential;

AWARE that market trends indicate a consistent price reduction for renewable energy technologies making them more competitive and offering opportunities for the diversification of the Region's energy sources;

CONVINCED that Energy is a resource, a collective service, and at the same time, a production factor of multisectorial dimension that lies at the heart of any socio-economic development process and essential for meeting fundamental human needs (food, health, education, etc.);

CONSCIOUS of the need to improve energy security, increase access to modern energy services and support the region's economic and social development in an environmentally benign manner through the promotion and use of renewable energy and energy efficient technologies in ECOWAS member states;

ON THE PROPOSAL of the Seventieth Session of the Council of Ministers which held in Abidjan from 20 – 21 June 2013.

RECOMMEND to the Authority of Heads of States and Government to adopt the attached Draft Supplementary Act on the ECOWAS Renewable Energy Policy.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE DE
L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

Seventieth Ordinary Session of the Council of Ministers

Abidjan, 20 – 21 June 2013

RECOMMENDATION C/REC.5/06/13 RELATING TO THE GENERAL CONVENTION ON SOCIAL SECURITY OF MEMBER STATES OF ECOWAS

THE COUNCIL OF MINISTERS

MINDFUL of Articles 10, 11and 12 of the ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 3 of the said Treaty defining the aims and objectives of the Community;

MINDFUL of Chapter XI of the ECOWAS Treaty which contains provisions that underscore Member States obligations to co-operate in social , cultural and development issues and to harmonize and co-ordinate their policies and programmes in these areas;

RECALLING in particular Articles 60(2)(a) and 61(2)(b) under Chapter XI of the Treaty on co-operation in the area of employment and for the harmonisation of Labour and Social Security Legislations of Member States;

MINDFUL of Supplementary Act A/SA.2/05/09 adopting a Labour and Employment Policy for ECOWAS;

CONSIDERING that the Member States undertake to cooperate with a view to mobilising the various sections of their populations to ensure their effective integration and contribution to the development of the region;

RECALLING the objectives of the International Labour Organization on Equal Treatment, (1962, (N° 118) and on the Preservation of Social security Rights, (1982 (N° 157), aimed at the effective realisation of equal treatment for migrant workers and the preservation of their social security rights;

RECALLING the Abuja Treaty and its Protocol on Free Movement of Persons, the Right of Residence and establishment;

RECALLING the African Union Migration Policy Framework for Africa (Banjul 2006), particularly its sections on migrant workforce and regional integration;

REALISING that greater benefit would be derived from the ECOWAS Free Movement Protocols if a General Convention on Social Security was adopted for the Community;

CONSIDERING therefore the need to coordinate the social security programmes of Member States of ECOWAS;

REALISING that the implementation of the Protocol on the Free Movement of Persons, Right of Residence and Establishment may be achieved through the adoption of a General Convention on Social Security;

DESIROUS of restructuring the Social security Systems of Member States;

RECOMMENDS

TO THE HEADS OF STATE AND GOVERNMENT to adopt the attached draft Supplementary Act relating to the General convention on Social Security of Member States of ECOWAS.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

SEVENTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abidjan, 20 - 21 June, 2013

RECOMMENDATION C/REG.6/06/13 AMENDING THE DRAFT SUPPLEMENTARY ACT A/SA.2/12/08 ON THE ESTABLISHMENT, FUNCTIONS AND OPERATION OF THE REGIONAL COMPETITION AUTHORITY FOR ECOWAS

THE COUNCIL OF MINISTERS,

MINDFUL to articles 10, 11, and 12 of the ECOWAS Revised Treaty creating the Council of Ministers and defining its composition and functions;

MINDFUL of Article 3 of the said Treaty that provides for the harmonization and coordination of National Policies in the area of trade as a means of maintaining and enhancing economic stability within the sub region;

MINDFUL of Supplementary Act adopting the Community Competition Rules and the Modalities for its implementation within ECOWAS;

ALSO RECALLING the adoption of Supplementary Act A/SA.2/12/08 on the Establishment, Functions and Operation of the Regional Competition Authority for ECOWAS which is meant to guarantee optimum application of the Competition Rules;

HAVING IDENTIFIED differences in material provisions within the English and French versions of the Supplementary Act A/SA.2/12/08 establishing the Regional Competition Authority;

WISHING to ensure uniformity in the English and French versions of this Supplementary Act leaving no room for any disparity within the provisions of both versions;

DESIROUS therefore of amending the current Article 2 paragraphs 1, 2, and 3 of the French version of this Supplementary Act to align it in both meaning and content to Article 2 paragraphs 1, 2, 3, and 4 of the English version of the latter Act.

RECOMMEND to the Authority of Heads of State and Government the adoption of the attached Draft Supplementary Act amending the draft Supplementary Act A/SA.2/12/08 on the establishment, functions and operation of the Regional Competition Authority for ECOWAS.

DONE AT ABIDJAN THIS 21ST DAY OF JUNE 2013

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H.E. CHARLES KOFFI DIBY

CHAIRMAN

FOR COUNCIL

COMUNIDADE ECONOMICA DOS
ESTADOS DA AFRICA OCIDENTAL

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

EXTRAORDINARY SESSION OF THE AUTHORITY OF ECOWAS HEADS OF STATE AND GOVERNMENT

Abidjan, Republic of Côte d'Ivoire, 19 January 2013

FINAL COMMUNIQUE

1. The Extra-Ordinary Session of the Authority of Heads of State and Government of the Economic Community of West African States (ECOWAS) took place on 19 January 2013 in Abidjan, Republic of Côte d'Ivoire, under the chairmanship of **H.E. Alassane Ouattara,** President of the Republic of Côte d'Ivoire and Chairman of the Authority.

2. The Summit was convened to review the latest political and security developments in Mali, in particular the modalities for the accelerated deployment of the African-led International Support Mission in Mali (AFISMA) in the light of the deteriorating security situation in the north of Mali in the aftermath of the adoption of the United Nations Security Council Resolution 2085 (2012). The Summit also reviewed the latest political and security developments in Guinea Bissau.

3. The following Heads of State and Government, or their duly accredited representatives, attended the Summit:

- H.E. Thomas Boni **YAYI**, President of the Republic of Benin
- H.E. Blaise **COMPAORE**, President of Burkina Faso
- H.E. Alassane **OUATTARA**, President of the Republic of Côte d'Ivoire
- H.E. John Dramani **MAHAMA,** President of the Republic of Ghana
- H.E. Alpha **CONDE**, President of the Republic of Guinea
- H.E. Manuel Serifo **NHAMAJO**, Interim President of the Republic of Guinea Bissau
- H.E. ELLEN **JOHNSON-SIRLEAF, President** of the Republic of Liberia
- H.E. Dioncounda **TRAORE,** Interim President of the Republic of Mali

- H.E. Mahamadou **ISSOUFOU**, President of the Republic of Niger
- H.E. Goodluck Ebele **JONATHAN**, President of the Federal Republic of Nigeria
- H.E. Macky **SALL**, President of the Republic of Senegal
- H.E. Ernest Bai **KOROMA,** President of the Republic of Sierra Leone
- H.E. Susan **WAFFA-OGOO**, Minister of Foreign Affairs of the Republic of The Gambia
- H.E. Charles Agba **KONDI**, Minister of Health of the Togolese Republic
- H.E. Francisco Pereira **DA VEIGA**, Ambassador of the Republic of Cape Verde to Coté d'Ivoire

4. H.E Idriss Deby **ITNO**, President of the Republic of Chad and H.E. Laurent **FABIUS**, Minister of Foreign Affairs of France participated in the Summit as Special guests.

5. The following States participated in the Summit as observers:

- Germany, Belgium; Burundi; Canada; Egypt; Germany; Italy; Libya; Mauritania; Morocco; South Africa; Spain; Tunisia; United Kingdom and United States of America.

6. The following Organizations also participated in the Summit as observers:

- The African Union Commission, represented by the High Representative for Mali and Sahel, H.E. Pierre **BUYOYA**;
- The United Nations, represented by the Special Representative of the UN Secretary General for West Africa, H.E. Saïd **Djinnit** and;
- The European Union.

7. The Heads of State and Government took note of the Memoranda of the President of the ECOWAS Commission on the situations in Mali and Guinea Bissau and the Report of the Extra-Ordinary Session of the Mediation and Security Council of 18 January 2013 by the Chairman of the Council. They also took note of the briefings by H.E. Blaise Compaoré, President of Burkina Faso and Mediator in Mali, and H.E. Goodluck Ebele Jonathan, President of the Federal Republic of Nigeria, Associate Mediator in Mali and Chairman of the Regional Contact Group on Guinea Bissau.

8. The Heads of State and Government expressed deep concern about the gravity of the security situation provoked by the entrenchment of separatist

movements and terrorist and criminal networks in the north of Mali, and the debilitating impacts of their activities on the unity and territorial integrity of the country, as well as on regional and international peace and security.

9. After careful deliberations, the Heads of State and Government reaffirmed their determination to assist Mali in the resolution of its security and institutional crisis within the framework of the norms and principles underpinning Community Protocols. To this end, the Heads of State and Government endorsed the main recommendations contained in the various reports and took the following specific Decisions:

10. The Heads of State and Government express their deep gratitude to France for launching operations in Mali, within the framework of respect for the sovereignty of Mali and the International legality, to halt the advance of the terrorist and extremist groups, thus paving the way for the implementation of Resolution 2085 (2012).

11. Authority welcomes the adoption of Resolution 2085 by the UN Security Council on 20 December 2012, congratulates the members of the Council on the achievement, and underscores the need for the expeditious implementation of the Resolution.

12. Authority congratulates Benin, Burkina Faso, Niger, Nigeria and Togo on the speed with which they have prepositioned their contingents for urgent deployment in Mali. It welcomes the decision taken by Côte d'Ivoire, Ghana, Liberia, Senegal and Sierra Leone to contribute to the deployment of AFISMA.

13. Authority urges all troop-contributing Member States to make their contingents immediately available to the Force Commander and instructs the President of the Commission to ensure the follow-up.

14. Summit authorizes AFISMA contingents to engage in operations with their organic units, and the formation of reserve units from the troops pledged by Member States but not immediately deployed under AFISMA.

15. The Heads of State and Government endorses the appointment of Major General Shehu Usman Abdulkadir (Nigeria) and Brigadier General Yaye Garba (Niger) as Force Commander and Deputy Force Commander of AFISMA respectively.

16. Authority instructs the President of the Commission to intensify consultations with the Government of Mali, the AU and the UN on the speedy

establishment of a functional Mission Headquarters to facilitate coordination and deployment of AFISMA.

17. Summit welcomes the decision taken by Chad to expedite the deployment of troops in support of the AFISMA operations and calls upon other Member States of the African Union to also make contributions. In this regard, Summit directs the President of the Commission to take the necessary measures to ensure that the other African contingents are taken into account by the AFISMA Command.

18. Authority directs the President of the Commission to expedite high-level consultations with the Government of Mali, the AU and UN towards the establishment of a Joint Coordination Mechanism on Resolution 2085 to facilitate regular consultations on political leadership, resource mobilization, reporting, monitoring and evaluation.

19. Authority requests the United Nations to provide immediate logistical and financial support for the deployment of AFISMA pending a UN Security Council decision on a UN logistical support package, consistent with UNSC Resolution 2085 (2012), and bearing in mind the unfolding situation on the ground in Mali that necessitated the accelerated deployment of AFISMA. In that regard, Authority welcomes the steps already taken by the UN Secretary-General to present to the UNSC, in the coming days, options on the logistical support that could be provided to AFISMA.

20. Authority instructs the President of the Commission to initiate all necessary actions to convene, in close consultation with the AU, a donor conference for the mobilization of financial, material and logistical resources for the deployment of AFISMA.

21. Authority instructs the President of the Commission to take all necessary measures to mobilize internal resources in support of AFISMA operations. In this regard, Authority calls on all Member States to fulfill their Community Levy obligations as a matter of urgency, and directs the President of the Commission to ensure a follow-up. Authority also expresses gratitude to the Government of Nigeria for the financial assistance to Mali.

22. The Heads of State and Government authorize the ECOWAS Commission to use a special dispensation outside the normal ECOWAS procedures in order to accelerate the procurement of logistical resources, other goods and services, with respect to the deployment of AFISMA.

23. Authority instructs the President of the Commission to take necessary and urgent steps to strengthen the human resource and operational capacities of the Office of the Special Representative in Mali, and to ensure the deployment of a robust civilian component within the framework of AFISMA. Consequently, Authority approves a special waiver to the Commission for the recruitment of additional staff. Authority also instructs the President of the Commission to apply the same dispensation for the recruitment of essential staff to the Department of Political Affairs, Peace and Security, to further enhance its capacities in the face of the new political and security challenges facing the Region.

24. Authority stresses the need for the ECOWAS Standby Force to be strengthened and prepositioned for rapid deployment to face challenges that could arise in the region.

25. The Heads of State and Government also express gratitude to international partners for the timely intervention to support the Government of Mali to defend its territorial integrity within the framework of Resolution 2085.

26. Summit welcomes the announcement by international partners, particularly the European Union and the United States of America, to provide urgent logistical and financial assistance in support of AFISMA operations.

27. Summit calls on humanitarian agencies and Partners to intensify assistance to Mali and the neighbouring countries to meet the humanitarian consequences of the deployment, including assistance to affected populations, protection of humanitarian corridors/spaces, and actors. Summit calls on the Partners to coordinate their efforts to facilitate the implementation of the humanitarian aspects of Resolution 2085.

28. **With regard to the institutional crisis facing Mali**, Authority reiterates its unflinching support to the on-going transition, and to the Interim Transitional authorities, particularly the Interim President and Prime Minister. Authority urges the President to take all necessary measures to chart a transitional roadmap and establish mechanisms for its implementation, including preparations for an inclusive, free, fair and transparent electoral process, national dialogue, and the extension of state authority throughout the territory of Mali.

29. Authority commends President Dioncounda Traoré for his courage and resilience in the face of adversity and challenges in his country.

30. The Heads of State and Government reaffirm its determination to take all appropriate measures to strengthen the Transition.

31. The Heads of State and Government express gratitude to the Mediator, H.E. Blaise Compaoré, President of Burkina Faso, and the Associate Mediator, H.E. Goodluck Ebele Jonathan, President of the Federal Republic of Nigeria, for their sterling mediation efforts, and encourage them to persevere in their undertaking until the resolution of the institutional and security crises in Mali.

32. **On the issue of the political and security challenges in Guinea Bissau**, Authority expresses its commitment to accompany the country in accomplishing the tasks of the transitional process, including the conduct of urgent multi-sectoral reforms and the holding of inclusive, free, fair and transparent elections in the course of the transition.

33. Authority welcomes the accession of all political parties in Guinea Bissau to the Transitional Pact, including the PAIGC, and commends them for their efforts in deepening internal dialogue. Authority welcomes the setting up of the Parliamentary Commission within the People's National Assembly to review the transitional roadmap with a view to determining a technically feasible date for the holding of the next Presidential and Legislative elections.

34. Authority directs the President of the Commission to take all appropriate measures to expedite action on the commencement of the implementation of the Defence and Security Sector Reform Programme (DSSRP), and to this end welcomes the upcoming high-level consultations in Abuja between the ECOWAS Commission and the Government of Guinea Bissau on the modalities for the take-off of the programme.

35. Summit takes note of the Joint Assessment Mission undertaken by ECOWAS, the CPLP, the AU, the UN and the EU in December 2012, and welcomes the new spirit of cooperation among the Stakeholders.

36. The Heads of State and Government reiterate the call on the AU to urgently consider the recognition of the on-going transition and the lifting of sanctions against Guinea Bissau. They further urged the UN, CPLP, the EU and other international partners to resume cooperation with Guinea Bissau and to support efforts aimed at ensuring a more inclusive transition in the country.

37. Authority decides to extend further financial support to the Government of Guinea Bissau to assist in the running of government.

38. Authority expresses gratitude to the troop-contributing Member-States to ECOMIB, and commends ECOMIB troops for their efforts at ensuring security in Guinea Bissau. Authority approves the creation of a reserve force of 140 troops in support of ECOMIB.

39. Summit directs the Commission to expedite action on strengthening the capacities of the Office of the Special Representative in Guinea Bissau in order to facilitate the effective discharge of its additional responsibilities.

40. Authority expresses deep appreciation to H.E. Goodluck Ebele Jonathan, President of the Federal Republic of Nigeria and Chairman of the Regional Contact Group on Guinea Bissau, and Member States of the RCG-GB, for their assistance to Guinea Bissau and their commitment to ensuring a successful inclusive transition.

41. Authority decides to remain seized by the matter of Mali and Guinea Bissau.

Done at Abidjan, this 19th Day of January 2013

THE AUTHORITY

COMUNIDADE ECONOMICA DOS
ESTADOS DA AFRICA OCIDENTAL

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

COMMUNAUTE ECONOMIQUE
DES ETATS DE L'AFRIQUE
DE L'OUEST

FORTY-THIRD ORDINARY SESSION OF THE ECOWAS AUTHORITY OF HEADS OF STATE AND GOVERNMENT

Abuja, Federal Republic of Nigeria, 17 & 18 July 2013

FINAL COMMUNIQUE

1. The Forty-Third Ordinary Session of the Authority of Heads of State and Government of the Economic Community of West African States (ECOWAS) was held in Abuja, Federal Republic of Nigeria on 17 and 18 July 2013, under the Chairmanship of **H.E Alassane Ouattara,** President of the Republic of Côte d'Ivoire and Chairman of the Authority.

2. The following Heads of State and Government or their accredited representatives attended the Summit:

- H.E. **Thomas Boni YAYI**, President of the Republic of Benin
- H.E. **Blaise COMPAORE**, President of Burkina Faso
- H.E. **José Maria Pereira NEVES**, Prime Minister of the Republic of Cape Verde
- H.E. **Alassane OUATTARA**, President of the Republic of Côte d'Ivoire
- H.E. **Aja Isatou NJIE-SAIDY**, Vice President of the Republic of The Gambia
- H.E. **John Dramani MAHAMA**, President of the Republic of Ghana
- H.E. **Alpha CONDE**, President of the Republic of Guinea
- H.E. **Manuel Sérifo NHAMAJO**, Interim President of the Republic of Guinea Bissau
- H.E. **Ellen JOHNSON-SIRLEAF**, President of the Republic of Liberia
- H.E. **Dioncounda TRAORE**, Interim President of the Republic of Mali
- H.E. **Mahamadou ISSOUFOU**, President of the Republic of Niger
- H.E. **Goodluck Ebele JONATHAN**, President of the Federal Republic of Nigeria

- H.E. **Ernest Bai KOROMA**, President of the Republic of Sierra Leone
- H.E. **Mankeur NDIAYE**, Minister of Foreign Affairs and Senegalese in Diaspora of the Republic of Senegal
- H.E. **Elliott OHIN**, Senior Minister of Foreign Affairs and Cooperation of the Togolese Republic

3. The Special Representative of the Chairperson of the African Union in Mali and the Sahel, the Special Representative of the Secretary-General of the United Nations, and the Ambassador of the Republic of Chad to Nigeria, representing President **Idriss Deby Itno,** also attended the Summit as observers.

4. The Heads of State and Government took note of the 2013 Interim Report of the President of the Commission and the Report of the 70th Ordinary Session of the ECOWAS Council of Ministers by the Chairman of the Council. They also took note of the Memoranda of the President of the Commission on the situations in Mali and Guinea Bissau as well as the Report of the 30th Ordinary Meeting of the Mediation and Security Council of 15 July 2013 presented by the Chairman of the Council. Authority also took note of the reports of **H. E. Blaise Compaoré**, President of Burkina Faso and ECOWAS Mediator in Mali, and **H. E. Goodluck Ebele Jonathan**, President of the Republic of Nigeria, Associate Mediator in Mali and Chairman of the Regional Contact Group on Guinea Bissau.

5. Authority adopted the different reports presented and expressed satisfaction with the pertinence of the recommendations contained therein, the thrust of which relate to integration programs, regional peace and security, and institutional matters.

6. The Heads of State and Government affirmed their firm political will to further boost the regional integration process by pooling their efforts towards the socio-economic development of West Africa in an environment of regional peace and security, and good governance. In that regard, the Authority took the following specific Decisions:

REGIONAL ECONOMIC PERFORMANCE AND MARKET CONSOLIDATION

7. Authority welcomes the efforts by Member States in the consolidation of their economic growth. To sustain these performances, the Heads of state and government commit to the pursuit of their policies aimed at sanitizing the macroeconomic sector and controlling public deficits. In that regard, the Authority tasks the President of the Commission to fast-track the harmonization of macroeconomic policies, as well as the measures to ensure the effectiveness of the second monetary zone.

8. Authority notes with satisfaction the activities undertaken by the Commission and Member States towards the creation of a common market in West Africa. Authority reaffirms its political will to accelerate the regional integration process, especially through the establishment of the ECOWAS Common External Tariff (CET). Summit reiterates the need to conclude a development-oriented regional Economic Partnership Agreement (EPA). It welcomes the completion of the review of the West African liberalization scheme, taking into account its coherence with the CET and the development imperatives.

9. In order to deepen reflection on all these matters critical to the consolidation of the regional market and matters linked to the Community Levy. Authority decides to convene an Extraordinary Summit in Dakar, Republic of Senegal, by October 2013. It directs the President of the Commission to take the necessary measures to prepare the summit with the participation of the Council of Ministers, the Ministers of Finance and Trade.

10. Determined to ensure the effective implementation of the ECOWAS Protocol on Free Movement of Persons, Right of Residence and Establishment, the Heads of State and Government firmly decide to use all possible means to eliminate all the barriers to trade and mobility of persons. In that regard, Authority decides to entrust the responsibility for monitoring this important matter to **H. E. Blaise Compaoré**, President of Burkina Faso. Authority endorses the establishment and implementation of joint border posts in the ECOWAS space.

SECTORAL POLICIES

11. Authority welcomes the vigorous actions taken to speed up the construction of the Lagos-Abidjan Highway. It commends the determination of the Member States of this Corridor in the realization of the project. Authority directs the Commission to facilitate the expeditious implementation of this project, in particular by developing its related financing mechanism.

12. Conscious of the importance of transport infrastructure to the overall ECOWAS development strategy, Summit decides to entrust the coordination and driving role of this sector, particularly air transport, to **H. E. Alassane Ouattara**, President of the Republic of Côte d'Ivoire. Authority encourages the pursuit of air transport liberalization measures, and urges Member States to ensure their effective implementation. It directs the Commission to take all the necessary steps to build institutional capacities for the attainment of this objective.

13. Authority renews its commitment to energy services access in West Africa. In this regard, Authority adopts the ECOWAS Energy Efficiency Policy as well as the Renewable Energy Policy. It directs the Commission to take all the necessary measures to facilitate the implementation of the developed action plans. In particular, Authority instructs the Commission to pursue efforts in the area of interconnectivity of electricity networks and the mobilization of the needed resources for the special emergency programs of Member States. It also instructs the Commission to expedite action on the establishment of the regulatory framework for electricity market development in West Africa.

PEACE AND SECURITY

14. The Heads of State and Government reaffirm their commitment to the principles enshrined in the Protocols and Decisions relating to democracy, good governance, peace and security. Having carefully reviewed the evolution of the security, political, and institutional situations in Mali and Guinea Bissau, as well as transnational organized crime and the on-going electoral processes in the Region, Authority decides as follows:

Mali

15. Authority welcomes the adoption of the United Nations Security Council Resolution 2100 (2013) of 25 April 2013, as well as the subsequent smooth transition from the operations of the African-led International Support Mission in Mali (AFISMA) to the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) on 1 July 2013.

16. Authority expresses deep appreciation to the political and military leadership of AFISMA, particularly the Force Commander, Police Commissioner, as well as the officers and rank and file, for their role in the stabilization of Mali, and their heroism, professionalism and sense of duty in the service of the Region.

17. The Heads of State and Government pay merited homage to the AFISMA soldiers who paid the ultimate price in the line of duty. They reiterate their gratitude to France and Chad for their decisive action and sacrifices in Mali.

18. Authority expresses gratitude to all partners, in particular the AU, the EU, US, and the neighboring countries for their cooperation, as well as their financial, logistical, and political support to the efforts in Mali.

19. Authority expresses appreciation to the United Nations, in particular members of the Security Council, for the diligence on the Mali dossier. It urges the UN to further strengthen cooperation and collaboration with the African partners under the MINUSMA mandate.

20. Summit reiterates its appeal to the donor community for urgent additional financial and material support in response to the persisting humanitarian emergency in Mali and in neighboring countries.

21. Authority instructs the Commission to expedite a review of the ECOWAS Peace and Security Architecture with regard to preventive diplomacy and rapid military response capability, against the background of the lessons learned in Mali.

22. Authority welcomes the signing of the Preliminary Agreement towards the Elections and Inclusive Peace Talks between the Government of Mali and the National Movement for the Liberation of Azawad (MNLA) and the High Council for the Unity of Azawad (HCUA) on 18 June 2013 in Ouagadougou.

23. Authority commends the signatories for this significant breakthrough in the overall peace process in Mali, and urges them, as well as the other armed groups that have adhered to the Agreement, to continue to strictly abide by its provisions.

24. The Heads of State and Government commend the Malian authorities, the political parties and other stakeholders for the consensus on holding the Presidential election on 28 July 2013, as well as the preparations underway aimed at conducting a free, fair and transparent election. They appeal to the political parties, candidates and their followers to demonstrate self-restraint, accept the outcome of the polls and, in the event of disputes arising, to resort to exclusively legal means.

25. Summit expresses profound gratitude to **H.E. Dioncounda Traore**, Interim President of the Republic of Mali, for his personal commitment, dedicated service, and for his able leadership of the transition in a most difficult period in Mali's history.

26. Summit pays merited homage to **H.E. Blaise Compaoré**, President of Burkina Faso and ECOWAS Mediator in Mali, and **H.E. Goodluck Ebele Jonathan**, President of the Federal Republic of Nigeria and Associate Mediator, for their productive mediation efforts in Mali, in particular for facilitating the conclusion of the landmark Agreement of 18 June 2013. It expresses appreciation to the UN, the AU, the EU and other partners for their contribution to the Ouagadougou process.

Guinea Bissau

27. Authority welcomes the signing of the revised Transitional Pact by all the political stakeholders in Guinea Bissau, paving the way for the creation of the fully inclusive Transitional Government on 7 June 2013. It exhorts the Interim President, the Transitional Government, the People's National Assembly, the Civil Society Organizations and all other stakeholders, to work assiduously and cooperatively

towards the implementation of the urgent tasks of the transition, in particular the holding of the general elections.

28. Authority recalls its Decision of 28 February 2013 extending the period of transition till 31 December 2013. In that regard, the Heads of State and Government urge the authorities in Guinea Bissau to adopt the most appropriate and efficient methods to ensure the holding of the elections on the stipulated date of 24 November 2013.

29. Authority welcomes the second Joint Assessment Mission of ECOWAS, the AU, CPLP, the UN, the EU, and the OIF to Guinea Bissau. It also welcomes the commitment by these partners to accompany the country in the electoral process and the post-electoral reform agenda.

30. Authority once more reiterates its call on the African Union and international partners to lift the sanctions imposed on Guinea Bissau and to resume bilateral cooperation with the country. Authority encourages the intensification of on-going initiatives to convene a donor conference to mobilize the necessary resources for the socio-economic development of the country.

31. Summit directs the Commission to take urgent steps, in close consultation with the other partners, to resume meetings of the International Contact Group on Guinea Bissau.

32. Authority takes note of the commencement of the Defense and Security Sector Reform Program in Guinea Bissau, and directs the ECOWAS Commission to ensure its effectiveness.

33. Authority, while commending the Commanders and the contingents of the ECOWAS Security Mission in Guinea Bissau (ECOMIB) for their laudable efforts in the country, and decides to extend the mandate of ECOMIB by a further twelve months from 17 May 2013 until 16 May 2014.

34. Summit expresses deep appreciation to **H.E. Goodluck Ebele Jonathan**, President of the Federal Republic of Nigeria and Chairman of the Regional Contact Group on Guinea Bissau (RCG-GB), and members of the Group, as well as to **H. E. Alpha Condé**, President of the Republic of Guinea and Mediator in Guinea Bissau, for their efforts to ensure a successful and inclusive transition in Guinea Bissau.

Electoral Processes

35. Authority takes note of the legislative elections scheduled to take place in Togo and Guinea on 25 July 2013 and 24 September 2013, respectively. Authority commends all the stakeholders in both Member States for the maturity demonstrated in reaching consensus on the elections, and expresses gratitude to the facilitators in the dialogue processes.

36. Summit launches an appeal to all the political parties, the candidates and their followers to ensure the conduct of peaceful, free, fair and transparent elections.

Emergent Security Threats

37. The Heads of State and Government firmly condemn the acts of terrorism, piracy and other forms of transnational organized crime perpetrated in the ECOWAS space. Summit expresses its solidarity with the Member States that have fallen victim to these attacks, in particular Mali, Niger and Nigeria.

38. Authority reaffirms its firm determination to combat, with all appropriate measures, all these scourges undermining the regional efforts to deepen regional integration and ensure stability. In this regard, the Heads of State and Government reaffirm their commitment to the Political Declaration made at the 24-25 June 2013 Yaoundé Summit of ECOWAS and ECCAS States on Maritime Safety and Security in the Gulf of Guinea.

39. Authority directs the Commission to facilitate the urgent adoption of the ECOWAS Integrated Maritime Strategy and the establishment of Pilot Model Zone E within the framework of the Strategy. It also instructs the Commission to expedite action on the implementation of the ECOWAS Counter-Terrorism Strategy.

40. The Authority welcomes the different initiatives and strategies developed with a view to finding a lasting solution to the security and development challenges in the Sahel region. It underscores the need for coordination to ensure coherence and complementarity of the disparate interventions. Towards this end, Authority directs the Commission to expedite action on the adoption of the ECOWAS Sahel Strategy, and to ensure ECOWAS's coordination role of the various strategies at the regional level.

INSTITUTIONAL MATTERS

41. Towards the implementation of the Decisions taken by Authority at its 42nd Ordinary Session in Yamoussoukro on 27-28 February 2013 with regard to the adoption of a 15-member Commission, Summit decides to allocate the following statutory positions in accordance with the new structure of the Commission:

	Statutory Posts	**Allocation**
1	President	Burkina Faso
2	Vice President	Liberia
3	Commissioner, Finance	Sierra Leone
4	Commissioner, Macroeconomic Policy and Economic Research	Mali
5	Commissioner, Trade, Customs and Free Movement	Niger
6	Commissioner, Agriculture, Environment and Water Resources	Togo
7	Commissioner, Infrastructure	The Gambia
8	Commissioner, Political Affairs, Peace and Security	Nigeria
9	Commissioner, Social Affairs and Gender	Senegal
10	Commissioner, General Administration and Conferences	Ghana
11	Commissioner, Human Resources Management	Guinea Bissau
12	Commissioner, Education, Science and Culture	Bénin
13	Commissioner, Energy and Mines	Guinea
14	Commissioner, Telecommunications-IT	Cape Verde
15	Commissioner, Industry and Private Sector Promotion	Côte d'Ivoire

42. Authority decides to allocate the statutory positions that have expired in other Institutions of ECOWAS as follows:

	Statutory Posts	**Allocation**
1	Financial Controller	Nigeria
2	Director General of GIABA	Côte d'Ivoire
3	Deputy Director General of GIABA	Ghana
4	Director General of WAHO	Niger
5	Deputy Director General of WAHO	Bénin
6	Judge 1, Community Court of Justice	Nigeria
7	Judge 2, Community Court of Justice	Liberia
8	Judge 3, Community Court of Justice	Mali
9	Judge 4, Community Court of Justice	Burkina Faso

43. Authority takes note of the state of advancement of the institutional reform process and encourages the Commission to pursue the exercise till its successful conclusion.

44. The Heads of State and Government pay merited homage to **H.E. Alassane Ouattara,** President of the Republic of Côte d'Ivoire and Chairman of Authority, for his constant dedication to the service of regional integration, peace and security in West Africa.

45. The Heads of State and Government decide to hold their 44th Ordinary Summit in Yamoussoukro, Republic of Côte d'Ivoire, at a date to be agreed after consultations.

Done in Abuja, this 18th Day of July 2013

THE AUTHORITY