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**PROTOCOL A/P2/1/03 RELATING TO THE
APPLICATION OF COMPENSATION PROCEDURES
FOR LOSS OF REVENUE INCURRED BY ECOWAS
MEMBER STATES AS A RESULT OF THE TRADE
LIBERALISATION SCHEME**

The High Contracting Parties,

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

Mindful of Article 48 of the Treaty relating to compensation for loss of revenue incurred by a Member State as a result of trade liberalisation;

Mindful of the Protocol relating to the evaluation of loss of revenue registered by the ECOWAS Member States;

Mindful of Protocol A/P1/7/96 relating to the conditions for the application of the Community levy;

Mindful of Decision A/DEC.6/7/92 amending Decision /1/5/83 relating to the adoption and implementation of a single ECOWAS trade liberalisation scheme;

Mindful of Decision A/DEC 19/5/80, dated 28 May, relating to the application of compensation procedures for loss of revenue incurred by the Member States;

Considering that one of the major obstacles to the implementation of the ECOWAS trade liberalisation scheme stems from the inadequacies observed in the system adopted for the compensation of the loss of Customs revenue;

Conscious that harmonisation of the trade liberalisation schemes operating in the sub-region is a necessary condition for the creation of a common market;

Desirous of enacting a protocol introducing a judicious and effective compensation system for loss of revenue;

Hereby agree as follows:

I.

DEFINITIONS

Article 1

For the purposes of this Protocol,

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

"Community" means the Economic Community of West African States whose creation was reaffirmed by Article 2 of the Treaty;

"Member State" means a Member State of ECOWAS;

"Authority" means the ECOWAS Authority of Heads of State and Government established by Article 7 of the Treaty;

"Council" means the ECOWAS Council of Ministers established by Article 10 of the Treaty;

"Executive Secretariat and Executive Secretary" mean the ECOWAS Executive Secretariat provided for and Executive Secretary appointed under Articles 17 and 18 of the Treaty respectively.

Article 2

Under the terms of Article 48 of the Treaty, compensation shall be paid to Member States incurring loss of Customs revenue from imports as a result of the implementation of the ECOWAS trade liberalisation scheme.

II. EVALUATION OF REVENUE LOST

Article 3

Loss of customs revenue incurred by a Member State is defined as total shortfall in receipts recorded by the Member State as a result of its importation of approved originating industrial products.

Article 4

Total loss of Customs revenue incurred by an ECOWAS Member State importing industrial products originating from another ECOWAS Member State, as a result of the application of the preferential intra-Community regime shall be assessed according to the following formula:

$$\text{CRL} = (\text{Cde} + \text{Str}) \times \text{Vcif}$$

where

CRL	=	Customs revenue lost
Cde	=	Customs duty and taxes of equivalent effect
Str	=	Statistical taxation rate
Vcif	=	GIF value of product.

Article 5

Shall be compensated, any Customs revenue lost as a result of the imposition of import duties and taxes assessed on the basis of the formula stipulated in Article 4 above. This provisions shall not be applicable to domestic taxes levied on locally produced goods or goods imported from within the Community.

III.

DURATION

Article 6

The duration of the compensation mechanism is fixed at four (4) years, dating from 1 January 2002.

Amounts payable as compensation shall be calculated on a decreasing scale in the following manner:

100% of loss incurred in 2002,

80% of loss incurred in 2003,

60% of loss incurred in 2004,

30% of loss incurred in 2005,

0% of loss incurred with effect from 1 January 2006.

Article 7

Member States shall transmit to the Executive Secretariat, within a time-limit not exceeding six months from the date of reference, a list of Customs declarations processed under the ECOWAS trade liberalisation scheme, accompanied by the originals of the certificates of origin of each product, and copies of the declarations of release for consumption.

IV.

COMPENSATION PROCEDURE

Article 8

The Executive Secretariat shall be given a time-limit of 90 days from the date of receipt of applications for compensation, to screen the applications, determine the amounts payable as compensation and effect payment.

Article 9

Payment of compensation shall be effected by the Executive Secretary who shall render account thereof to the Council of Ministers.

V. FINANCING

Article 10

Compensation for loss of revenue incurred by Member States shall be financed from the proceeds of the Community levy.

VI. INTERIM ARRANGEMENTS

Article 11

Pending the entry into full force of the Community levy, the Executive Secretariat shall effect payment of the compensation, in consultation with the Member States, in accordance with the current rules.

VIII. FINAL PROVISIONS

Article 12

Amendment and Revision

- 1 Any Member State may submit proposals for the amendment or revision of this Protocol.
- 2 Any such proposals shall be submitted to the Executive Secretariat which shall notify the Member States, not later than thirty (30) days after receipt of the proposals. Amendments or revisions shall not be considered by the Authority unless Member-States have been given at least one month's notice thereof.
- 3 Amendments or revisions shall be adopted by the Authority.

Article 13

Entry into force

- 1 This Protocol shall enter into force provisionally upon signature by the Heads of State and Government. Accordingly, signatory Member States and the Executive Secretariat hereby undertake to start implementation of all provision of the Protocol upon signature.
- 2 This Protocol shall enter into force upon ratification by at least nine (9) signatory States in accordance with the constitutional procedures of each Member State.

- 3 This Protocol and all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies to all Member States and notify them of the dates of deposit of instruments of ratification by the Member States and shall register it with the Organisation of African Unity (OAU), the United Nations Organisation (UNO), and such other organisation as the Council may determine.

Article 14

The Protocol relating to the assessment of loss of revenue and Decision A/DEC.19/5/80, dated 28 May 1980, relating to the application of compensation procedure for loss of revenue and all the provisions therein shall be abrogated upon the entry into force of this Protocol.

IN FAITH WHEREOF WE, THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) HAVE

SIGNED THIS PROTOCOL IN SINGLE ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES, ALL TEXTS BEING EQUALLY AUTHENTIC

DONE AT DAKAR, THIS 31ST DAY OF JANUARY 2003

Signed

His Excellency Mathieu KEREKOU
President of the Republic of Benin

Signed

H.E. Madam Fatima VEIGA
Minister of Foreign Affairs, Co-operation and Communities, for and on behalf of the President of the Republic of Cape Verde

Signed

His Excellency Dr. Alhaji Yahya A.J.J. JAMMEH
President of the Republic of The Gambia

Signed

Hon. Lamine SIDIME
Prime Minister, representing the President of the Republic of Guinea

signed

His Excellency Blaise COMPAORE
*President of Faso
Chairman of the Council of Ministers*

signed

His Excellency Laurent GBAGBO
President of the Republic of Cote d'Ivoire

signed

His Excellency John Agyekum KUFUOR
President of the Republic of Ghana

signed

H.E. Koumba Yala Kobde NHANCA
President of the Republic of Guinea-Bissau

Signed

H.E. Moses Z. BLAH

*Vice-President of the Republic of Liberia
For and on behalf of the President of the
Republic of Liberia*

signed

His Excellency Amadou Toumani TOURE

President of the Republic of Mali

signed

His Excellency Mamadou TANDJA

President of the Republic of Niger

signed

His Excellency Chief Olusegun OBASANJO

*President, Commander-in-Chief
of the Armed Forces of the Federal Republic of
Nigeria*

Signed

His Excellency Maitre Abdoulaye WADE

President of the Republic of Senegal

signed

**His Excellency Alhaji Dr. Ahmad Tejan
KABBAH**

President of the Republic of Sierra Leone

Signed

His Excellency Gnassingbe EYADEMA

President of the Togolese Republic