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PROTOCOL ON CONDITIONS GOVERNING THE APPLICATION OF THE COMMUNITY LEVY

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

THE HIGH CONTRACTING PARTIES

MINDFUL of Article 7 of the Economic Community of West African States (ECOWAS) Revised Treaty establishing the Authority of Heads of State and Government and defining its composition and functions;

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

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

HAVE HEREBY AGREED AS FOLLOWS:

I. DEFINITIONS

Article 1

For the purposes of this Protocol:

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

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

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

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

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

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

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

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

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

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

Article 2

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

Article 3

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

Article 4

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

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

Article 5

The following shall be exempted from the Community Levy:

VI. TRANSITIONAL PROVISIONS

Article 19

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

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

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

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

Article 20

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

Article 21

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

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

VII. FINAL PROVISIONS

Article 22

Settlement of Disputes

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

Article 23

Sanctions

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

Article 24

Amendment and Revision

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

Article 25

Deposit and Entry into Force

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

organisations as may be determined by the Council of Ministers.

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

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

**DONE AT ABUJA,
THIS 27TH DAY OF JULY, 1996**

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



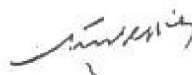
H.E. MATHIEU KEREKOU
*President, Head of State, and Head of
Government of the Republic of BENIN*



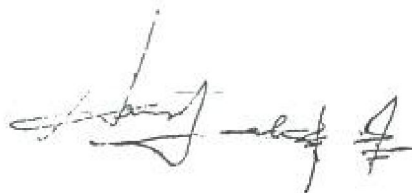
H.E. BLAISE COMPAORE,
*President of FASO and Chairman
of the Council of Ministers of BURKINA FASO*



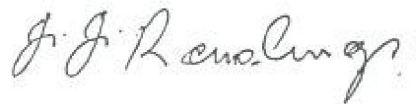
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H.E. FLT. LT. JERRY JOHN RAWLINGS
President of the Republic of GHANA



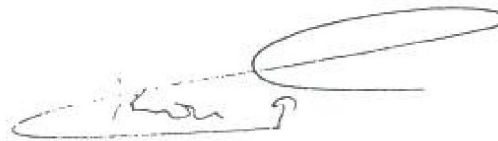
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*President of the Republic, Head of State of the
Republic of MALI*



H.E. IBRAHIM MAINASSARA BARE
President of the Republic of NIGER

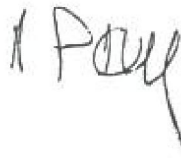
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President of the TOGOLESE Republic